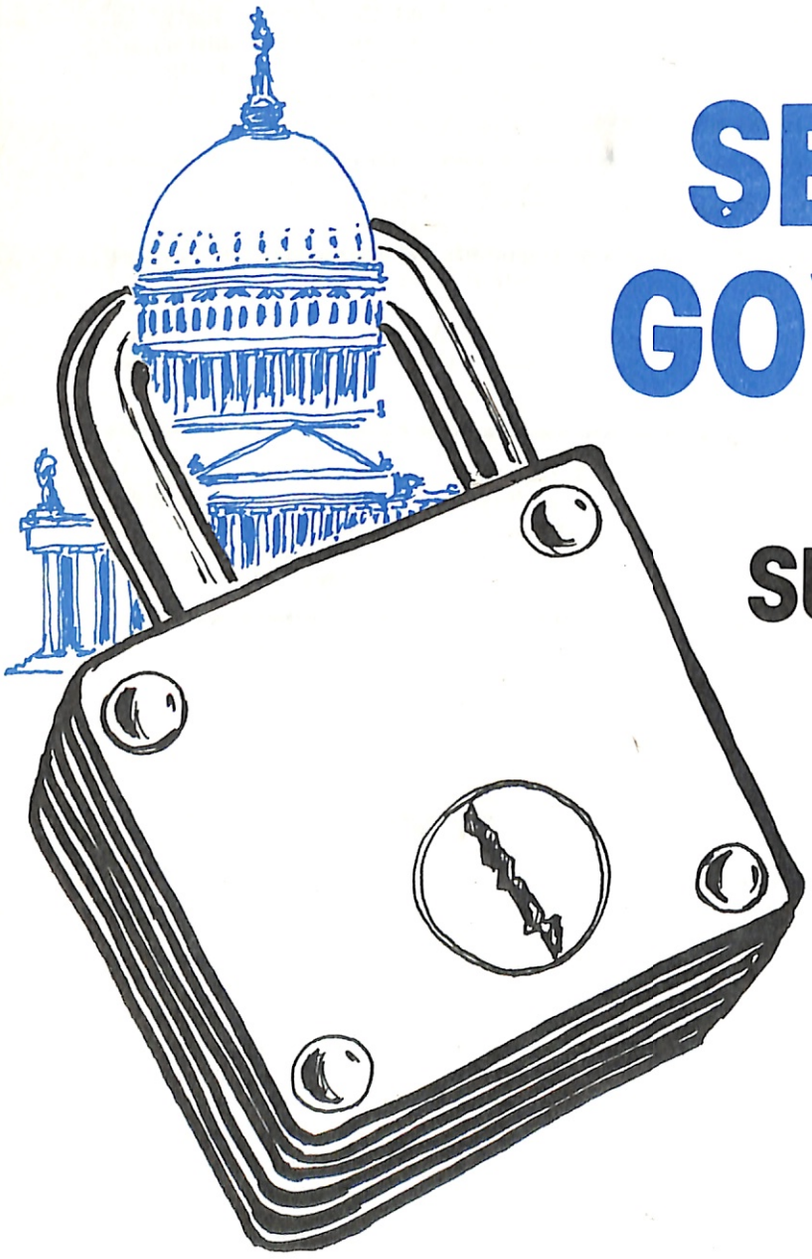
VOLUME 11, NUMBER 68/85¢

FOCUS MIDWEST

A MAGAZINE SENSITIVE TO THE REALITIES IN OUR SOCIETY



SECRECY IN GOVERNMENT

vs

SUNSHINE LAWS

in

Missouri

&

Illinois

&

Congress

SPECIAL REPORT

Democratic aspirants hunt votes shun issues

OUT OF FOCUS

(Readers are invited to submit items for publication, indicating whether the sender can be identified. Items must be fully documented and not require any comment.)

Missouri's only free-roaming elk is dead after succumbing to tranquilizer drugs. The elk was suspected of transmitting brucellosis, but tests proved it was free of the disease. Of unknown origin, the elk had roamed Atchison County for several years. Conservation Department officials had warned that the tranquilizers easily could kill the elk and also that elk rarely transmit brucellosis to cattle.

Chicago's City-Hall-County Building is one block square, bordered, not surprisingly, by a sidewalk. It is to be replaced, at a cost of $1,000,000. Not a bad buy, you say. The "it," however, is not the City-Hall-County Building, but the sidewalk. "This is like building a bridge," explained Brian M. Kilogallon, executive director of the city's Public Building Commission. "It's like having a roof between two layers of concrete," City Architect Jerome R. Butler Jr. elaborated.

From a press release issued by the Missouri Department of Conservation: "They talk of the Yankee dynasty in baseball, the Green Bay dynasty in football, the Boston Celtic dynasty in basketball . . . but what about the Joplin dynasty? In BB-gun shooting, that's what. For the third time in the short 10-year history of the Daisy/Jaycees International BB Gun Championships, the team from Joplin has won top honors." (Daisy makes air rifles; Jaycees make whatever it is that Jaycees make.)

A federal court jury in South Carolina has refused to believe that the rights of two welfare mothers were violated by the sterilization policy of Dr. Clovis H. Pierce of Aiken, S.C. The doctor would not accept as patients welfare recipients with three children unless they agreed to be sterilized. He coerced one of the women into being sterilized in exchange for the delivery of her fourth child. He threw the second woman and her day-old baby out of the hospital when, after he discovered her Medicaid status, she refused to be sterilized. The jury awarded the second woman $5 damages, the first one nothing.

Just a little farther north, very little farther, in North Carolina, Walter Williams III of Raleigh, N.C., decided to place tape over the slogan "First in Freedom" on his license plate because he believes that North Carolina does not offer equal freedom for blacks. Neither the identifying letters and numbers nor the name of the state were obscured. A white policeman arrested him, and he was convicted.

State Senator Albert M. Spradling Jr. (Dem), Cape Girardeau, announced that he would not seek re-election because the state's new campaign disclosure law would interfere with his law practice. He was first elected to the state Senate in 1952. A lawyer who receives a fee of $500 or more through his law firm must report the name of the client paying the firm. (Many lawyer-legislators have been accused of accepting political payments through their law firms.)

The Environmental Protection Agency nas reported that plutonium and other radioactive materials have leaked from a surface burial facility at Maxey Flats, Kentucky, and have entered the immediately surrounding environment, for distances of up to several hundred feet. The plutonium and other radioactive materials were buried between 1963 and 1972, so the movement has occurred in less than ten years. EPA scientists admitted that the potential long-range impact of these contaminants is not known.

The 550 diocesan and 500 religious order priests in the St. Louis archdiocese have been served notice by Cardinal Carberry: get a haircut, shave those beards. Noting that things were getting hairy around the archdiocese, the cardinal dispatched a secret letter to the clergy calling attention to the hair code at the archdiocesan seminary, which he wants followed as a norm. The letter said: "This code stresses the reasonableness of a fitting hair style with the avoidance of long hair resting on the shoulders as well as lengthy sideburns, beards and mustaches." No one's figured out yet what to do about those church statues of bearded Christs and Josephs.

From *Commonweal*, Vol. CII, No. 18

FOCUS
MIDWEST

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IN THIS ISSUE

The passage of sunshine laws on the local, state and federal levels is changing the conduct of government for the better, at least in our view. In conversations with strong supporters of openness in government – both politicians and private citizens – the conviction was voiced repeatedly that all the laws enacted will be for naught unless citizens maintain their pressure and, if possible, increase their demands for access to records and meetings.

While degree of acceptance differs greatly, openness and accountability is spreading relentlessly – it has even arrived in Cook County as Sheldon Gardner reports (page 9). As we go to press, we learn that the Missouri Court of Appeals, Kansas City District, took under advisement the Missouri Public Service Commission case in which an appeals court declared that the commission could deliberate in private. While the commission does conduct its business openly at present, as Wallis E. McClain, Jr. reports (page 14), the door can be shut at the whim of the commission at any time – even though Missouri has an Open Meetings Law. Other reports are on Jackson County (Mo.), Kansas City, and Congressional actions.

The implicit danger of open records is an invasion of privacy. The report by the Illinois Commission on Individual Liberty and Personal Privacy deals with this aspect (page 16).

Richard Manning, a Louisville reporter, covered for FOCUS/Midwest the First Democratic Issues Convention.

Letters

APPLAUDS VOTING RECORDS ISSUE

FM: Please send me three copies of your most recent issue.... I am a subscriber and enjoyed this issue on voting records.

Edwin R. McCullough
Chicago, Illinois

SENATOR EAGLETON RESPONDS TO EDITORIAL

F/M: I am writing in response to your recent editorial which stated that my support for legislation prohibiting the Department of Health, Education and Welfare from ordering busing (the Byrd Amendment) was grounded primarily on political considerations, rather than on principle.

It should be worth at least passing notice that this vote came in 1975, in the first year of a six-year term, and not in 1974, when I was running for re-election to the United States Senate. Had my position been dictated by political opportunism, as you conclude, wouldn't it have made a great deal more sense to take this position *before*, rather than *after*, my re-election campaign?

My position on the Byrd Amendment directly resulted from what I found to be a consistent pattern of HEW enforcement action that ran contrary to law and Congressional intent, coupled with clear and convincing evidence that busing of school children is an inappropriate remedy for the residential racial separation that exists in most of the nation's major metropolitan areas.

The first point, relating to HEW's enforcement policies, involves the distinction between *de jure* and *de facto* causes of school segregation, a distinction that you deny exists. Had your legal research been more thorough, you undoubtedly would have found that this distinction between *de jure* and *de facto* segregation has repeatedly been observed in decisions of the United States Supreme Court and was carried over into the language of the Civil Rights Act of 1964, which first gave HEW enforcement powers with respect to school segregation.

De jure segregation is that which results from governmental action of some kind. *De facto* segregation is that which comes about without official action. Both Congress and the Supreme Court have authorized remedial action to undo the effects of *de jure* segregation, while denying to both HEW and the lower Federal Courts any authority to act with respect to *de facto* segregation.

So far as I am aware, in all school desegregation actions brought in the Federal Courts, there is a rigorous sifting of the evidence in an adversary proceeding to determine whether or not the continued existence of predominantly black and predominantly white schools is the result of some form of governmental action, i.e., *de jure* segregation. But in the administrative enforcement proceedings undertaken by HEW, there has been a growing tendency to seek to achieve mathematical racial balance rather than to identify the causes of segregation. Under the HEW statistical formula, school districts are required, at the risk of losing all federal funds, to transport large numbers of school children across neighborhood zone boundaries in order to achieve a racial balance in each school that reflects approximately the same racial makeup as the school population in the district as a whole.

I see a vast constitutional difference between enforcing valid equal protection rights to eradicate *de jure* segregated educational systems, and making the quantum leap so as to create a mythical constitutional right of statistical racial balance in each classroom.

Congress has repeatedly admonished HEW to restrict its enforcement activities to measures designed to remedy the effects of *de jure* segregation, but those admonitions have not had their intended effect. It has become increasingly clear that HEW

considers itself to have a mandate to achieve racial balance in the major urban school districts of the United States. HEW merely finds that schools in one area of the system are predominantly black, in another area they are predominantly white, and then devises a percentage black and white formula for each school.

To spread a dwindling number of white students throughout a predominantly black school system is a self-defeating exercise. The following list of minority enrollment percentages in some of the nation's largest school systems will give you some idea of the futility of this policy:

City	Minority %
Atlanta	84.9%
Baltimore	70.4%
Chicago	72.5%
Cleveland	60.6%
Dallas	55.5%
Detroit	73.6%
Houston	61.5%
Kansas City	65.0%
Los Angeles	58.0%
Memphis	69.9%
New Orleans	80.8%
New York City	65.5%
Oakland	78.2%
Philadelphia	66.8%
St. Louis	70.4%
San Francisco	69.2%
Washington, D.C.	96.7%

Any notion that the concentration of minority students in central city schools throughout the nation might be dispersed through inter-district busing was effectively dispelled by the decision of the Supreme Court in *Miliken v. Bradley*, 418 U.S. 717, the Detroit school case. It had been hoped by the proponents of busing that the Court would recognize the ineffectiveness of a desegregation order limited to the predominantly black school population in the central city, and require that suburban districts be included within the scope of the remedy. However, the Supreme Court held that a metropolitan remedy cannot be ordered where there has been no showing of *de jure* violations by the suburban districts and no evidence of inter-district violation or effect. Your statement that courts are "just beginning to grapple with the issue of busing across district and city-suburban lines in a definitive way" is, at the least, misleading.

Finally on this subject, I want to make clear that the restrictions on busing that I have supported do not relate to that which is ordered by the courts in order to eliminate *de jure* segregation and to enforce valid constitutional rights under the Equal Protection Clause of the 14th Amendment. Congress does not have the power to intrude in this area by statute, and should not seek to do so by proposing a constitutional amendment.

Your editorial closed by commenting briefly on other positions I have taken. Rather than extend this letter by responding to these apparent afterthoughts and makeweight arguments, I am enclosing statements in which my positions and the thinking underlying them are developed at length.

Thomas F. Eagleton
United States Senator

AFS OPPOSES ANTI-PERSONNEL WEAPONS

FM: News reports of antipersonnel rockets supplied to Angola, and allegations of the use of antipersonnel bombs in the Middle East, lend a new urgency to the move to ban the use of especially cruel and indiscriminate weapons, a move that is connected with the development of humanitarian law in armed conflicts. Americans bear a special responsibility in this because of the leading role that U.S. institutions have played in the development and use of antipersonnel weapons. Millions of American "guava" bomblets were dropped on Indochina where unexploded ordnance remains a problem. Today Lance missiles are being shipped to the Middle East with a new Honeywell-manufactured, bomblet-filled warhead permitting the bombardment of heavily defended targets without the loss of bombing aircraft.

Sweden and 12 other countries have proposed banning the use of nail-like flechettes, antipersonnel cluster bombs ejecting small fragments, aircraft-laid antipersonnel mines, and small caliber projectiles as in the M16 rifle. A ban on napalm and other incendiaries has also been proposed. A resolution referring to the prohibition of the use of certain conventional weapons was adopted by consensus at the thirtieth session of the United Nations General Assembly. Letters on the antipersonnel weapons issue would be especially helpful now as the U.S. Government prepares its position for the Red Cross Conference of Government Experts to be held in Lugano January 28-February 26, 1976.

Letters can be sent to: George H. Aldrich, Deputy Legal Adviser, U.S. Department of State, Washington, D.C. 20520.

Louis W. Schneider
American Friends Service Committee Inc.

MORE INFORMATION ON JOHNNIE LEE BROOKS CASE

F/M: We appreciate your article by "Father Ralph Wright: 'Brooks is innocent' " (Vol. 10, No. 64). Here are a few additional facts which have come to light.

Why was Johnnie Lee Brooks arrested for the blinding and robbing of Wilma Chestnut? Why not one of the other three men, who, according to police reports, had visited Wilma on the day she was attacked? Why not Charles "Scar" Crane, who fit exactly the description that Wilma gave of her attacker? Or, why not Ronnie Clower, the man Wilma said was at the scene of the crime in her first report to police? Finally, there was Earl Harper, who himself admitted that he had helped choke Wilma unconscious before she was blinded.

According to Wilma Chestnut, the man who attacked her had a scar on his upper lip, wore long sideburns, and was named "Johnnie." This was the main evidence against Johnnie Lee Brooks. Yet, Johnnie Brooks had no scar on his lip, and he can't grow sideburns. Also, Wilma had not even mentioned the name "Johnnie" when she was first taken to the hospital. There, she repeatedly told her mother, "Ronnie did it. Ronnie did it." A family friend talked with Wilma at the hospital and later reported to police that Wilma told her that "a Negro male known only by Ronald was up at the apartment talking with her, and the door bell rang, she opened the door and that's all she can remember" (Police report, p. 3). In her own report to police, Wilma also said she had seen Ronnie Clower earlier in the day on September 23, 1971. Clower himself told police that he had seen Wilma earlier in the day on September 23rd. But, later, in court depositions and trials, both Wilma and Ronnie Clower denied they had seen each other at any time on the day of the crime. Why did Wilma Chestnut change her story to eliminate Ronnie Clower from any association with her on the day she was blinded? Was she afraid of Clower?

Along with Wilma Chestnut, it was Earl Harper who told the story that convicted Johnnie Lee Brooks of blinding Wilma Chestnut. In his court deposition, he claimed that after he, Clower, Crane, and Brooks visited Wilma many times, Brooks attacked Wilma and blinded her to stop her from identifying them as the ones who robbed the apartment of a tape deck and record player. But Harper's deposition told a different story from the report he had given to police. In that report, Harper said the group visited Wilma only twice and that Brooks attacked her and started choking her on the second visit. Harper said he hit Wilma, then left while Brooks was still choking her.

Like Wilma Chestnut, Earl Harper also tried to eliminate any association between Ronnie Clower and himself. He said he had never known Clower before September 23rd. In fact, he spent fifteen pages of his police report explaining that he hadn't known Clower before that day. Was Harper afraid of Clower too?

On May 6th, Father Wright talked with Harper in the jail. Then Harper said, "There are four people involved in this

Continued on page 6

Letters

Continued from page 5

thing whose names I haven't even given to my lawyer."

By the time of the first trial of Johnnie Brooks, on May 22, 1972, Charles Crane was living in California. One of the other key witnesses to the crime, Crane had left St. Louis to avoid testifying at the first trial. So, although Crane had long sideburns and a scar on his upper lip, a match for Wilma's description of her attacker, the jury didn't see him at this trial.

At that trial, Wilma described her attacker, calling him "Johnnie." Earl Harper told his story, and Johnnie Brooks was convicted of the robbery and blinding. He received fifteen years for the robbery, fifty-five years for the blinding. But Earl Harper had not told the jury that he had made a deal with the prosecutor in return for his testimony. The prosecutor had let Harper off with six months probation for his testimony. Since the jury never heard about this deal, the Missouri Court of Appeals ordered a new trial for Brooks. Between the end of the trial, in May, 1972, and this court order, in December, 1973, Johnnie Brooks languished in prison.

Meanwhile, a volunteer policeman who had offered to help Father Ralph Wright found a picture of Charles Crane in police files. He recognized Crane's scar and sideburns. So, on June 28, 1974, Charles Crane was picked up by police in California and brought back to St. Louis.

Crane knew he was in trouble because of Wilma's description of her attacker. So, in his court deposition, he said Wilma had seen his face while he was trying to pull Brooks off her. That story was completely different from Earl Harper's. Harper said he was the one who was beside Brooks when Brooks was attacking Wilma. Harper had also said that Crane, at the time of the attack, was busy taking the tape deck and record player out of the apartment. How could Crane's story fit with Harper's? Did they get confused trying to cover up for somebody else?

At the second trial, on November 18, 1974, Charles Crane first told his story. Then Earl Harper refused to testify. There was no chance for Brooks' lawyer to cross examine Harper and show the differences between his story and Charles Crane's story. The judge declared the trial a mistrial. Johnnie Brooks was sent back to prison. He had just begun his fourth year behind bars.

A third trial began on April 26, 1975. Earl Harper did not testify. Wilma Chestnut told her story about her attacker, a man named "Johnnie" with a scar and long sideburns. Then, Charles Crane, with scar and long sideburns, took the stand. There, he announced he was refusing to testify. Instead, his testimony from the second trial was read to the jury. Brooks' lawyer argued that this was totally unjust, but the judge let it be read to the jury.

Who now accused Johnnie Lee Brooks of blinding Wilma Chestnut? Earl Harper had refused to testify. So had Charles Crane. And Wilma Chestnut was accusing a man named "Johnnie" who did not even fit the description of Johnnie Lee Brooks. The prosecutor's case was collapsing, so he dropped the blinding charge but kept the robbery charge. The jury then convicted Brooks of robbery, in spite of the fact that the case against Brooks had been built on the theory that he blinded Wilma to stop her from identifying him as the robber. If Brooks wasn't guilty of the blinding, how could he be guilty of the robbery? Who did blind Wilma Chestnut?

These questions were never answered. Judge Harold Satz sentenced Johnnie Brooks to fifty-five years in prison for the robbery. He had been given the same sentence for the robbery that he had been given for the blinding in the first two trials.

Johnnie Lee Brooks is thirty-five years old. His fifty-five year prison sentence amounts to a life sentence for a crime he didn't commit. Johnnie has continued to proclaim his innocence while in prison. He has appealed his conviction in the third trial. The appeal will be heard in the next six months. Meanwhile, his appeal bond is $40,000. The bond was raised from $35,000 to $40,000 after the third trial. Attempts to have it lowered have failed.

The Committee to Free Johnnie Lee Brooks is organizing a campaign to help him win his freedom. We believe he is innocent of both the robbery and the blinding of Wilma Chestnut.

Scott Myers
Committee to Free
Johnnie Lee Brooks
3857 Kennerly (63113)

Hiring of Robert B. Carlson bad medicine for Illinois

Nationally, few personalities come to mind which reflect more the Nixon-Reagan mentality on welfare than Robert B. Carlson, recently employed as a "consultant" by the Illinois Legislative Advisory Committee on Public Welfare.

A former U.S. Welfare Commissioner, Carlson is responsible for arbitrarily chopping away at programs for the needy irrespective of the terrible harm done by his "reforms." When he was active as California's head of welfare, he devised various and sundry eligibility requirements whereby the state took the meat ax to the welfare program and removed huge numbers of persons from the rolls. Practically all of the policies established during that period have since been taken to court and have been found to be illegal and the former recipients are once again eligible for public assistance. All of this didn't help California much but made Reagan look good.

When President Nixon started his second term, he appointed Casper Weinberger to run the Department of Health, Education, and Welfare. Weinberger, who had also worked for Reagon, subsequently brought Carlson to Washington. This period will stand out in history as the darkest for HEW.

Missourians will remember Carlson, too. At the request of Gov. Christopher S. Bond and former State Auditor John D. Ashcroft, Carlson was asked to investigate the Welfare Department. At the time, the Department was efficiently run by the former executive director of the Missouri Association of Social Welfare, Bert Shulimson. However, no improprieties or questionable practices were found. Nevertheless, some conservative newspapers such as the *St. Louis Globe-Democrat* used Carlson's visit as a pretext to criticize the incumbent as a "social worker type" who should be replaced by a "clear-thinking business administrator."

Carlson is bad medicine.

Quality and cost of public services must be equalized

Sociologist Pierre De Vise winds up his study of the decline in population in the City of Chicago – so apparent in many older cities – with an optimistic note and a warning. The trends may be reversed, he writes, but meanwhile "the quality and cost of public services must be equalized."

State and suburban governments should take note that urban problems cannot be confined but if approached constructively can become urban opportunities.

Pierre De Vise writes:

"The backyards of our large cities, where the nation's best and most productive workers once lived, have become homes for the least productive as the result of complex national economic forces and policies in the areas of welfare, local government structure and financing, and land use.

"Our national policy is to allow state and municipal governments to decide levels of support and services for all public assistance recipients. As a result of differences in welfare support, some states repulse and other states attract recipients. Within states, differences in public housing and other services, and in zoning and housing costs dictate that welfare and minority people will concentrate in large central cities and be excluded from other urban areas.

"There is nothing very alarming about the present trends of birth decline, sluggish economic growth and resultant outmigration. Although these trends seem to be secular rather than cyclical, they may perhaps turn around unexpectedly in the years or decades ahead. But until and unless this happens, marginal workers and some municipalities, such as our central city, institutions, such as schools, and industries such as construction will suffer from declining local population, tax base and employment. This prospect makes it all the more necessary that local governmental reform be carried out to help equalize the quality and cost of public services, and to improve the access to jobs for all people on an area-wide basis, regardless of color, economic status and place of residence.

"Many Chicagoans take pride in Chicago as the city that works. But a city that works is more than a spectacular skyline and a balanced municipal budget. The skyline is but a block or two deep and masks a decaying interior. The budget covers but a fourth of the municipal functions of other cities and masks bankrupt budgets of parallel governments of education, health, welfare, housing and transportation.

"A city that works is, at the very least, a city that keeps its labor force employed – a city that not only keeps its jobs but that expands its economic base to keep up with the natural growth of its productive age population. If present trends of sluggish economic growth continue, however, the Chicago area is faced with the prospect of continuing to lose population by outmigration. In that event, not just Chicago, but many sort suburban areas will face problems of adjusting to a declining population and economic base."

Nationwide effort to survey opinions on peace by "Peace Ballots"

Millions of peace ballots will be given out nationally within the next few months in order to gather information on which American policy would reflect most closely public sentiment. "Voters" will be asked to reflect on a series of questions and indicate their preferences on a wide range of topics, such as environment, energy, defense, international organizations, and many others.

The responses will be collected and with the help of computers tabulated. The results will be submitted to all the presidential candidates, presented to the platform-writing committees of all parties, nationally publicized, and – possibly most important – give the American public for the first time an approximation in which direction American policy, domestically and internationally, should develop.

Nationally, the drive is sponsored by the National Committee for the Peace Ballot. Its executive board is drawn from the World Without War Council, the Council for a Department of Peace and the World Federalists/USA.

The St. Louis Committee has issued a call for a "Peace Ballot Primary" April 1 through 4, at which time thousands of ballots will be distributed to St. Louisans over the weekend. In St. Louis the drive is sponsored by the World Community Center, 438 North Skinker, a coalition of seven organizations. The drive is headquartered in Chicago at 110 S. Dearborn.

COMING INTO FOCUS

Missourians interested in supporting an initiative petition to reduce the percentage required for approval of bond issues to a simple majority should contact in Kansas City **Homer L. Williams** (622 Commerce Bank Building) and in St. Louis **Lawrence Lieberman** (7850 Birchmont Drive).

* * *

H. Clint Snyder, director of the administrative board at St. Matthew's United Methodist Church in Belleville (Ill.) has called on the Southern Illinois Methodist Conference to censure the president of McKendree College in Lebanon for permitting atheist **Madalyn Murray O'Hair** to address students at the church-affiliated school — and on a Sunday, yet. But the **Rev. Lance Webb,** bishop of the Methodist Church in southern Illinois, threw cold water on complaints against McKendree College President **Julian Murphy,** "To say that Dr. Murphy was encouraging atheism by permitting the students freedom of speech and thought is a complete misapprehension," Bishop Webb observed.

* * *

Although less is heard about the **Peace Corps** these days, it is still very active in many countries and has retained its credibility while many other overseas agencies have lost public trust. One of 185 volunteers in Ecuador is **Kristina A. Larson** of **Hillsdale**, Illinois, a graduate from Western Illinois University in Macomb in 1972. In 1973, after more than a year of Peace Corps service in the West African nation of Liberia, she traded the traditions of Liberian tribespeople for those of villagers in Ecuador, where she is a home economics specialist. In Liberia she taught nutrition, child care, midwifery and first aid. In all, 6,500 volunteers are active in 69 countries.

* * *

The Women's Place, a combination bookstore, library, and community information center, opened in Columbia, reports **Show-Me Libraries.** It is designed to meet the special needs of Columbia women.

"We are trying to set up programs on the basis of what women in Columbia have said about needing certain kinds of things," says Share Bane, chairperson of the center's board. The center resulted from an April, 1974 conference during which 100 women talked about programs needed in Columbia.

Show-Me Libraries also report that unlike "truth-in-lending," "truth-in-savings" may be a less familiar idea. While consumers are careful about comparing interest rates when they shop for a car loan or home loan, they don't bother to inquire about how the interest is computed on the savings they entrust to a bank or other institution. **Truth-in-Savings,** (1975, 60 p.), a compilation of readings by **Karen Stein** of the University of Missouri Extension Division, points out graphically the need for careful interest shopping for savings. One example shows how 6% interest on $1,000 for 90 days could vary from $44.93 to $75.30, depending on the method of computation. The readings in **Truth-in-Savings** (Miscellaneous Publication 465) are designed to acquaint consumers with the idea of truth-in-savings legislation, which would require full disclosure of information regarding earnings on savings deposits. Request from Extension Division, University of Missouri-Columbia, 211 Whitten Hall, Columbia 65201.

* * *

A federal court ruling on a complaint that the at-large election system in **Cairo** prevents blacks from winning seats on the **City Council** has been hailed by a civil rights lawyer and by the head of the **United Front** in Cairo. The ruling reversed a dismissal of the case by a district judge. The suit was filed in 1973 by six black residents of Cairo. It contends that the city commission form of government prevents blacks from being elected to the Cairo City Council because it dilutes the voting strength of blacks, who are concentrated in certain parts of the city.

No blacks have been elected to the City Council since the commission form was adopted 62 years ago, even though blacks make up 37 per cent of the town's 6000 residents. The **Rev. Charles Koen** contends that since 1970, the date of the last census, the community has become 50 per cent black.

* * *

Proposed legislation designed to prevent high-ranking officers from gaining tax breaks by suddenly becoming sick when it's time to retire has been approved by the House Armed Services Committee. Noting that generals, admirals and service doctors had a higher percentage of disability retirement than other military men, Representative **Samuel S. Stratton** (Dem.), New York, said the measure was prompted in part by the case of Gen. **Earl E. Anderson,** a former assistant Marine Corps commandant who retired on a 40 per cent disability last June after suffering chest pains while jogging. "This kind of thing hardly ever happens in the enlisted ranks; it occurs mostly among admirals and generals," Stratton said.

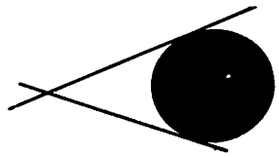
* * *

The impact on unemployment of environmental controls has been far less severe than many industry sources predicted, announced Environmental Protection Agency Deputy Administrator **John R. Quarles** on the last day of 1975.

Quarles cited a study done by a firm of Wall Street analysts for the Council on Environmental Quality which found that environmental legislation has generated an industry employing 1.1 million workers. Industry spending in 1975 on antipollution devices totaled $15.7 billion, the analysts reported.

* * *

Designers of the "giromill," a proposed wind-power unit, received a $156,000 study grant from the Energy Research and Development Administration. The structure converts wind into electricity but differs from conventional designs because its 130-foot blades move around a vertical shaft. **McDonnell Douglas Corporation** claims a 15 mile-per-hour wind is all the giromill needs to service 40 homes. Study results are due in May 1976.



THE CITIES

HOW OPEN IS THE JACKSON COUNTY (MO.) LEGISLATURE?

Lee Vertis Swinton, Chairman of the Jackson County Legislature, was interviewed on the operations of the county government.

F/M: How does the public view the openness and accessible of your county's government?

SWINTON: I believe you would conclude after looking at our operation that the public does have an opportunity to have input in the legislation enacted by the Jackson County Legislature and that the meetings are not secret and not closeted away from the general public and that the voters of this county are pleased with the way business has been conducted under the charter.

F/M: What charter are you referring to?

SWINTON: The people of Jackson County, Missouri went to the polls on November 3, 1970 and voted for a Home Rule Charter. This charter form of government became effective on January 1, 1973. The Constitutional Home Rule Charter provides for a separation of the legislative and the executive functions. The heart of the charter is a strong elective executive accountable to all the voters who has the power to appoint administrative officers of his government, the power to veto legislation and both a responsibility and the means at hand with which to operate an effective, efficient county government.

F/M: Does your county legislature meet at times and places convenient to the public?

SWINTON: The legislature has fifteen (15) members; eleven (11) from districts and four (4) at large. This new form of government has made it possible for the citizens of Jackson County to have access to its government, particularly its legislative sessions and the ways and means that are used to enact resolutions and ordinances to govern the county. Article II, Section 8 of the Charter states that the Legislature shall hold regular meetings as may be fixed by ordinance but not less than 48 regular, weekly meetings in each year. All meetings of the legislature shall be open to the public, and shall be held at the Courthouse at Kansas City or Independence or such other public places in the county as shall be designated by the legislature. For clarification, I might add that in January of 1973 when the charter took effect and the legislature began its meetings, the Courthouse in Independence was ready with an auditorium that has a seating capacity of approximately 200 and all the facilities for the 15 member legislative body to meet. The Kansas City Courthouse was not prepared and, therefore, not ready for the legislature to hold its business sessions there. Therefore, the legislature met at Independence for one of its weekly meetings and held the other in one of the districts of the county in order to give the public a chance to come to the meetings and participate in the legislature's functions.

F/M: In enacting legislation, at what points does the public have an input?

SWINTON: Section 10 of the Charter, which relates to ordinances and resolutions, states that they shall be introduced by a member or members of the legislature or by the legislature as a whole and they shall be in written or printed form. All ordinances, resolutions, orders and proceedings of the legislature shall be public records, and available for public inspections. The legislature, in its rules, sets up standing committees and special committees. When legislation is introduced in the regular legislative meeting, it is assigned by the Chairman of the Legislature or the person presiding at that meeting to one of the committees for study and recommendation. These committee sessions are held in Independence or Kansas City. There is an agenda published weekly so that the general public may attend these sessions; they may testify before the committee concerning the legislation pending and the committee will take into consideration that public testimony and make its recommendations to the legislature as a whole at its regular meeting concerning the adoption of the ordinance or resolution.

F/M: Much of the legislation is first considered by smaller committees. How open are they to the public?

SWINTON: Article II, Section 9 states that the legislature shall determine its own rules and order of business and shall keep a journal of its proceedings. The majority of the members of the legislature shall constitute a quorum, but a smaller number present at any meeting may adjourn from day to day or to a day certain and may compel the attendance of absent members in such manner and under such penalties as the legislature may by ordinance provide. The rules of our legislature states that eight (8) votes must be cast yes in order to pass legislation. The meetings, whether they be committee or be the legislature as a whole meeting in its regular session, are well advertised in the various news media, both printed and television, keeping the public informed so that the public may attend any session that there is legislation pending that they may have a peculiar or particular interest in. The legislature as well as the committees of the legislature has held many and numerous public meetings where they have invited the general public to make statements concerning the various proposals that it has before it prior to the enactment of legislation concerning the matters.

F/M: When does the legislature meet?

SWINTON: The Jackson County Legislature on the 1st, 3rd and 5th Mondays meet at 1:00 p.m. in the Kansas City, Missouri Courthouse. On the 2nd and 4th Mondays at 7:00 p.m. they meet at the Independence Courthouse. This was enacted in its first year of being in 1973 and there has not been any change so that the public can be aware of where the public meetings are being held.

COMMUNITY PRESSURE — NOT ACTS — BRING SUNSHINE TO COOK COUNTY

SHELDON GARDNER

The successful effects of reform legislators in passing "sunshine" legislation has had limited implementation in Cook County. Laws requiring governmental bodies to meet and deliberate in open public meetings and allowing public access to governmental records did not automatically implement themselves. Only in recent weeks have the pressures for compliance with these laws taken place in some areas. A challenge by a group of reform judicial candidates destroyed the cloak of secrecy over the electoral board hearings. A challenge by a militant citizens group ended the secrecy over real estate information that served to provide relief to certain large property owners.

When recent legislation established a number of new judgeships and the retirement of many sitting judges created additional vacancies, many lawyers decided to cast their hats into the ring. Regular party Democrats who failed to achieve official slating, as well as independent Democrats, filed petitions to run to be elected to the bench. As in every serious challenge to the party in a Democratic primary, challenges were made to these petitions in an effort to remove these "rebels" from the ballot.

Attorneys for the challenged candidates attacked the proceedings as a political sham, contending that the objector was a phantom who challenged all the serious anti-party candidate but never appeared in court. They further challenged the attorney for the objector as being in conflict because of his employment by the Illinois State Board of Elections as a $33,000-pe.-year consultant. They further challenged the propriety of board member Judge **Helen F. McGillicuddy** because of her candidacy as a party candidate for Appellate Court Judge. While Judge McGillicuddy did not rule upon the challenge to her opponent's petitions, it was alleged that she was

subject to, at a minimum, the appearance of conflict. They challenged Cook County Clerk **Stanley T. Kusper Jr.** because of his close relationship to the attorney for the objectors. Kusper, widely regarded in political circles as the party's man in election matters, became extremely defensive. The third member of the hearing board, Cook County State's Attorney **Bernard Carey**, took a strong open position against the throwing off of candidates on meaningless technicalities.

In the hearings on these challenges, the bitterest legal fights in recent history ensued. The candidates in defending themselves raised every point available. Two activist attorneys, **Franklin S. Schwarin** and **Michael A. Kreloff**, raised the challenge that the hearings were subject to the open meetings act and therefore should be subject to public scrutiny for all deliberations and actions.

Kusper then requested that Carey furnish a legal opinion on the matter as the lawyer for the board. Carey, in an unequivocal response, held the meetings to be subject to the open meetings act. As a result of the opening of the meeting, and the other legal challenges, the board overruled many of the weakest challenges. In several split decisions with Kusper and McGillicuddy voting to throw candidates off the ballot, Carey's dissents were used by the Illinois Supreme Court as a basis to reverse the holdings. The Supreme Court chastised the objectors for perverting the election laws to keep candidates off the ballot.

Without the cloak of secrecy, it is difficult for political hatchetmen to deprive citizens of the right to vote and be candidates. A little sunshine came into the darkened chambers of the electoral board.

The open records issues was raised when activist attorney **George Pontikes**, on behalf of CAP (Citizen's Action Program) filed a law suit challenging the right of the Board of Appeals to keep its records closed to the public. CAP contended that the Board of Appeals gave favored treatment to large property owners and demanded the right to examine the evidence presented by the favored property owners. The Board of Appeals, an administrative body charged by law with reviewing the tax assessments set by the assessor, contended that these records were presented by the taxpayer in confidence and were not subject to public scrutiny. The Board of Appeals used an ambiguous statute to deny public access to its records. Several months after the suit was filed, one of the two members of the Board, **George Keane**, suddenly resigned. **Seymour Zaban**, a lawyer and precinct captain in **Tom Keane**'s (George's brother) ward, was named as successor. Zaban, eager to reach an accord with CAP, sought an opinion of State's Attorney Carey. The opinion supported the contention of CAP that the records were open to the public. To his credit, although Zaban disagreed, he compromised his views by seeking legislative change to open the records. He also accommodated requests for the inspection of files by CAP and others. In the recent session of the Legislature, the statute was amended to clearly open the records.

But indeed, had it not been for the actions of the citizen groups and their pro bono attorneys, the challenge would never have been made. Open records acts, like open meetings acts, are meaningless unless pressures exist to force compliance.

Sheldon Gardner is the Deputy State's Attorney and Chief, Civil Actions Bureau of Cook County, Illinois.

OPEN GOVERNMENT WORKS IN KANSAS CITY

Richard L. Berkley

Kansas City has a 13-member (Mayor and 12 councilmembers) non-partisan council with a city-manager form of government. It works well and very much in the open. There are, of course, things that would provide for more openness such as having our committee hearings in the evening instead of at 2 p.m. in the afternoon.

Openness has two primary areas: (1) how, when, and where government officials meet and make decisions and (2) the opportunities for the public to make recommendations and get answers and responses to their problems and concerns.

The attitude of the elected officials and the administration are extremely important in determining whether any government is in fact open. For no government can really operate totally in the open. There are always going to be phone calls, casual conversation, legitimate questioning, and to some extent persuasing, that continuously goes on among legislators and between legislators and the public during the total decision making process. Nevertheless, in Kansas City, a sincere effort is made to judge each issue on its merits and to listen carefully to communications and testimony given on the subject. The process is flexible and responsive, and the end result generally productive and realistic.

The Kansas City Council certainly encourages participation by the public. Some of the activities of the council to involve citizens include: (1) meeting with and exchanging ideas with constituents; (2) the creation of the Action Center which is a one-stop, first-floor information office designed to get answers for citizens without the frequently experienced "run around;" (3) pre-budget hearings (not required by charter) initiated to give the public more opportunities to say where their tax dollars should be spent; (4) the encouragement of activity by community councils and neighborhood groups throughout the city; (5) the use of citizen advisory committees; (6) the creation of the goals and progress center in the council office to keep us more informed of important happenings and progress in the top priority areas of concern; (7) the structure, regularity and continuity of the council which meets 52 weeks a year with relatively low absenteeism; and (8) the more than 40 hours per week that the Mayor and council willingly devote to this "part time" responsibility.

A pre-budget hearing the other night perhaps reflects fairly on the system. For approximately 2½ hours suggestions were heard on where to spend next year's money — interspersed with complaints on various subjects. At the end of the meeting a gentleman who had voiced several rather piercing comments during the evening got up and said "thanks." In spite of the fact that he didn't agree with the council, he felt it was doing a good job. The audience responded with applause. Open government can and does work in Kansas City.

Richard L. Berkley is Mayor Pro Tem of Kansas City and Councilman, 4th District. He is the only councilmember who holds regularly scheduled neighborhood meetings with the public. To date he has held 79 of these evening meetings in various locations.

IF YOU MOVE
Please let us have your new address two weeks before you move. If possible, enclose or copy exactly your address label especially the zip code. Unless we have your zip code we may not be able to forward FOCUS/Midwest to your new address.

By TOM LAUE

ILLINOIS POLITICS

Ronald Reagan, Republican presidential candidate, visited Springfield, Bloomington, and Rockford, Illinois Jan. 12. Two groups hovered around him wherever he went — the press and the **secret service.** The secret service, in its overzealous quest to protect Reagan, actually did more to impede reporters than to safeguard the candidate. Perhaps the secret service singles out for special harassment members of the press, frustrated by the knowledge there is little it can do to thwart a serious attempt on a candidate's life as he plunges into crowds of well-wishers and supporters in city after city. Whatever the reason, the secret service constantly ordered the press around, often unnecessarily and in one case, without any clear authority.

The first of day-long clashes between reporters and the secret service occurred at Springfield's Reagan **campaign headquarters,** Reagan had already arrived and begun his speech when a reporter tried to enter the building where he spoke. The reporter was met by a grim secret service agent who tersely informed the reporter he could not enter because "there's no more room in here." Actually, an entire corner of the room reserved for the press was empty. The reporter, a wire service man responsible at that moment for keeping tabs on Reagan for newspapers across the country, told the secret service agent he was a member of the working press and had to get in to record Reagan's remarks. Unimpressed by a reporter merely trying to do his job, the agent kept blocking the doorway and insisting the reporter stay outside where it was impossible to hear Reagan. The reporter finally edged his way inside and the agent finally gave up his struggle to bar a reporter from a public political appearance. However, had the reporter been more timid and the agent more insistent, Reagan's public utterances in the state capital would have been missed by the wire service reporter.

Later, when Reagan held a press conference in the **statehouse,** secret service agents subjected every member of the press — easily identified by tags and identification cards handed out by Reagan staffers — to annoying "stop-and-identify-yourself again" tactics while scores of other capitol hangers-on streamed past, presumably less of a threat to Reagan's well-being because they wore no press passes.

At the **airport,** secret service agents pawed through luggage brought on board by local reporters who joined the Reagan entourage at Springfield. This was an understandable precaution. But curiously, no reporters were electronically frisked, now a routine procedure for all commercial flights.

Perhaps the most outrageous secret service imposition occurred on the brief flight — less than half an hour — from Springfield to Bloomington. A **Washington Post** reporter, trying to quickly compose his story on a typewriter perched on his lap, was approached by a stewardess who told him Federal Aviation Administration regulations require that he stop typing and put the typewriter on the seat beside him. He tried to explain he was near deadline and had to file his story by phone when the plane landed in Bloomington in just a few minutes. The stewardess, not satisfied with this explanation, sought the assistance of a secret service agent. Interrupted a second time, the **Post** reporter again explained his predicament. All the while, precious seconds were ticking away. Finally, the exasperated writer told the secret service

agent to send someone from the FAA over if the typewriter on his lap was causing a problem. The agent left and the reporter resumed writing but the confrontation had just begun.

Minutes later, a second secret service agent arrived, leaned over toward the reporter and said, "Buddy, we've got your number." The agent then turned on his heel and stalked away without another word. Reporters who heard the threat shouted at the retreating agent. "Hey, what's that supposed to mean?" Others said, "Ooh, well, we've got your number, too." Shaking his head, the **Post** reporter went back to work. Soon after, Reagan's top information man came over, and after hearing what happened, assured the agitated reporter he could indeed type on his lap without any more threats or interruptions from the secret service. Only slightly placated, the angry reporter asked sarcastically, "I suppose the next thing the secret service will want to write our stories for us?" Moments later, with the flight to Bloomington nearly over, the **Post** man was interrupted a fifth time, now by the head of the secret service contingent. Though his message was friendly — "Just tell me if anyone else tries to hassle you and I'll take care of it" — the visit again broke the writer's concentration. In all, while under deadline pressure, he was disturbed by a stewardess, a Reagan staff member and three secret service agents whose authority to regulate a reporter's typewriter placement is dubious at best.

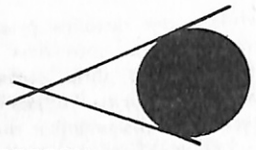
At Bloomington, the top secret service agent again took it upon himself to tell reporters how to do their job. The pair was standing along the airport fence, waiting for candidate Reagan to disembark. The agent gently guided them toward the press bus, suggesting "nothing will happen here." Remembering that Reagan did not work the airport crowd in Springfield, choosing instead to go directly from the plane to a waiting car, the two reporters took the agent's advice. Once aboard the bus, they noticed Reagan was shaking hands and talking with people along the fence. Had Reagan said anything new or of significance (and who can ever know since the press was effectively barred?), it would have gone unreported.

Photographers came in for their share of secret service abuse, too. When Reagan visited a farm east of Bloomington and spoke to several hundred farmers in a barn filled with tractors and other agricultural machinery, photographers were given their most unique opportunity of the day — at least in theory — because Reagan with farm implements in the background would appeal to photo editors across the country far more than typical shots of the candidate at airports shaking hands. But the secret service, ever vigilant in its protective mission, somehow concluded photographers should have virtually no freedom to move about and make pictures from the best angle. Instead, they were ushered to one spot where it was nearly impossible to shoot both Reagan and the farm machinery. Finally, the head secret service agent agreed to let the photographers out of their roped-off area — but for such a short time they could not possibly obtain the best pictures.

The same thing happened when Reagan spoke at a theater in Rockford. Though every citizen who wandered in off the street was free to roam the auditorium at will, photographers trying to angle for the best shot were held tightly in check. Finally, a wire service photographer was able to persuade a secret service agent he had the right to shoot pictures without being given or having to ask for permission where to do it.

But for every such small victory, the secret service wins dozens more, and the net result is that the secret service, ostensibly to protect candidates, is given a nearly unbridled chance to harass and seriously hamper the press. It seldom misses the opportunity.

Tom Laue is a statehouse reporter for UPI. Before that he worked for AP in Chicago. He is a graduate of University of Illinois Journalism School.



By MERYL ATTERBERRY

MISSOURI POLITICS

If public access to government documents is vital to the success of a democracy, the State of Missouri is in trouble. Missouri has no system for making the publications of state government regularly available to its citizens. Since Missouri has no state printer, each agency must be contacted directly for its publications.

Lack of knowledge or availability of publications is a major difficulty. Often an agency is willing to distribute its documents, but potentially interested persons are unaware of their existence. Currently the main source of information about new documents is the **Missouri State Government Publications** checklist produced monthly by the Missouri State Library. This list, however, is limited by necessity to the publications received at the State Library, which itself has no statutory authority to collect state documents.

Why are state government publications so important? Rules and regulations issued by state agencies affect many citizens directly. Statistics gathered, compiled, and published by state personnel are often essential to planning activities carried out by local governments, organizations, and individuals. Annual reports, newsletters, and other documents provide a record of the activities of specific state government units as well as their plans for the future.

According to National Science Foundation estimates, almost 2 million dollars went into research and development activities alone in Missouri state government in 1973. Without access to the output of agencies administering public funds, individuals can neither benefit from the information and assistance generated by state government nor expect any degree of accountability from state agencies and officials.

In a majority of states, libraries are utilized as a channel for dissemination of state publications. At least thirty of the fifty states already maintain an official depository library system for state publications, and legislation to create such a system is under consideration in several other states. The governing council of the American Library Association has endorsed a recommendation that a state agency should be "designated by law" to collect and distribute copies of state publications within each state.

Librarians from public, academic, and special libraries have been working to prepare legislation to set up a depository library system for Missouri state government publications. The legislation has been prefiled for the 1976 session of the General Assembly.

Governor **Christopher S. Bond,** Secretary of State **James C. Kirkpatrick,** and Dr. **Richard Brownlee,** director of the State Historical Society, have indicated their support for HB 1172. The Coordinating Board for Higher Education endorsed the concept. Many individuals and organizations throughout the state are enthusiastic about the proposed depository system, including the Missouri Political Science Association. Rep. **P. Wayne Goode** (D-St. Louis) is acting as the chief sponsor of the bill.

Under provisions of the preliminary draft, a Depository Library Center would be established within the State Library to receive from state agencies sufficient copies of each publication to distribute to libraries which would be designated as state documents depositories. Standards for depositories would ensure that each library would have the ability to process, organize, retain, and to make available state publications, that librarians in depositories would assist the public in the use of state publications, and that depositories would be distributed to make publications conveniently accessible in all areas of the state. In addition, copies would be deposited in the State Historical Society and the State Archives.

Depositories would be of two types: Full depositories would receive all publications of all agencies, and partial depositories would receive designated publications in order to build specialized subject collections. Each state agency would be required to designate a publications officer, who would be responsible for supplying the publications of that agency to the Depository Library Center.

The direct cost to implement a state depository library system would be small. By taking advantage of existing library systems, the proposed legislation does not require a costly new bureaucracy to distribute state publications.

A State Documents Depository Library system can provide a substantial savings to state government by providing an effective means for the dissemination of the information which agencies spend time and money to produce. Since the system would automatically place publications in library collections, easily available to the public, agencies could print in lesser quantities and still be assured of wide exposure. Recognizing these advantages, several agencies are already using the State Library as a distribution center on a voluntary basis.

A State Documents Depository Library system would provide Missouri citizens with access to the published output of state agencies by replacing the present "first-come, first-serve" situation with automatic distribution of publications throughout the state. Through this system, utilization and preservation of the documents of Missouri government would be assured and government would be brought closer to the people.

Meryl Atterberry is Coordinator of government documents at the Missouri State Library.

(Editor's Note: House Committee hearings on the bill were held in mid-January. All the witnesses supported the bill. What might be even more important, none of the Committee members asked hostile questions.)

POEMS

gothic /*John Ronan*

1/
I passed my adolescence in the dark
ages: spring meant nothing but lent,
gargoyles were guardian angels.
a life of black and white,
full of wolves and forest, it was
being in a woodcut
don by Du Hameel or Durer,
listening to the abbey's plain –
song pall across the Indiana pastures.

2/
till Renaissance and sin.
I could not picture Robin Hood
at vespers, so I finally gave in:
to contact with the Laccadives and Spice
Islands, limes and lemons, quinces and fine
wines,
labdanum, ormolu, myrrh, romantic love and
lust
for the other possible body. it was
caravans from Baghdad, Aleppo and Damascus.

3/
escape was not complete.
parts of me remain medieval:

I must pay with pain
for orgasm of all sorts,
loan my soul
its penance in advance;

wake in the night to hear the alarm
clock counting
down to the apocalypse;

keep a coat of arms –
in gules, a kind of griffin,
Guilt Rampant.

ADVERTISING, PUBLIC RELATIONS, OR WHAT YOU WILL /*Edward Morin*

There's nothing wrong with it
that wasn't there before you started
writing it. It pays. It costs.

Short, sweet, soothe to a need.
Make a bargain counter ballet,
whole operas of police chiefs.

The captains of your imagination
always end up making words grin
like stale half-moons of fortune cookie.

The Chinese say: While being raped,
relax.

End of a Poet /*Jay Roberts*

Lay him out colder
than public sales

In his 6'
piece of heaven.

His works
line birdcages,

fly, like
paper airplanes,

into the trash.

Mrs. Valentine's Basement / *George H. Gurley, Jr.*

Mrs. Valentine has invented steps
That go down below zero.
Her students believe everything she says.
She leads them down the glass stair case
To the basements of Icebergs.
They play with mirrors
And hang nets for the negative numbers.
Their words liquify
And harden to the things they speak of:
Prisms, puzzles and fingers of Ice.
No need for candles here –
She teaches the light
In images and opposites.

Slide with me on a glacier
To the freezing point;
Let us go down further, children;
Count backwards, follow me.

Sunshine law works in Missouri—most of the time

WALLIS E. MCCLAIN, JR.

The Missouri Open Meetings and Records Law, in effect for only two and one-half years, has already created a flurry of action in the courts and has caused consternation and confusion among public officials.

Because of ambiguity in wording, the Missouri law has had contradictory interpretations from the public and the press, as well as the courts. Definitive court decisions, however, are conspicuously lacking. Although numerous complaints have resulted from uncertainty about the requirements of the law, most of those complaints have been resolved locally without resorting to judicial interpretation.

Moreover, although there have been many complaints, few have apparently resulted from flagrant disregard of the law by public officials.

The Case of the PSC

A good example of the difficulty with the law can be seen in the controversy concerning meetings of the Missouri Public Service Commission. The case is also the first in the state in which a suit was filed against a state agency for violation of the law.

In June 1974, the *Kansas City Star* claimed that the PSC was violating the law by making decisions on utility rates in closed session. Joined by the *St. Louis Post-Dispatch*, the Kansas City Star Company sued to open the meetings. The suit also alleged that the PSC had not instituted a procedure for notifying the public of special meetings as required by the law.

Attorneys for the PSC countered that the statute did not apply to the commission because the commissioners' deliberations were quasi-judicial in nature.

A temporary restraining order was issued against the commission, ordering it not to hold closed sessions. The commission unsuccessfully fought to have the order dismissed on the grounds that it prevented the body from conducting its normal business.

The suit, filed in Cole County Circuit Court, was eventually dropped when the commission complied with the statute.

A second action involving the PSC, however, perhaps further beclouded the issue. Phillips Transit, Inc., a Kansas City truckline, appealed a PSC order which adversely affected the company.

The company's complaint was, in essence, that the commission's actions were illegal because they involved decisions made behind closed doors. Their appeal to the Missouri Court of Appeals ended, however, in a ruling in September 1975 which perhaps reflects the inadequacy of the law itself.

Chief Judge Jack P. Pritchard of the appellate court, Kansas City District, said, "After submission, there is no requirement that the deliberations or conferences of the commissioners of the PSC be public, or that they express their opinions or votes on any cases before it in a public meeting."

Thus, despite a specific law to legislate open meetings, the situation in Missouri seems to revert to a state of affairs lamented by Harold Cross in the 1950's: Public access to public information is often dependent, after all is said and done, on the grace of beneficent public officials.

That indeed seems to be the case in Missouri, at least as far as the PSC is concerned. A. Robert Pierce, Jr., chairman of the commission, had given his permission to the commission to open rate meetings to the public. He indicated after the court handed down its decision in September 1975 that the commission would continue that policy of holding public votes in rate cases. He added, though, that commission opinions issued on rate cases would still be confidential.

Openness at the PSC is therefore not required by statute, but is dependent entirely on bureaucratic fiat. Because Pierce can at any time change that policy, some lawmakers are looking to specific statutory remedy.

State Senator Harry Wiggins has announced plans to introduce legislation in the 1976 Missouri General Assembly specifying that the PSC is subject to the same requirements as other governmental bodies.

UMSL Claims Exemption

Much of the difficulty with the law revolves around definitions of commission or agency of state and local government. In the case of the PSC, an early argument by the commission claimed exemption from the provisions of the law because it was a quasi-judicial body. The University of Missouri Board of Curators claimed exemption, saying it was not a state governmental body. Similarly, local city councils from Berkeley to Joplin, among others, have protested that they are not subject to the provisions of the law.

City Governments Resist Open Meetings

In Kansas City, the Jackson County Circuit Court had to issue a permanent injunction in March 1974 ordering the city council not to hold secret meetings.

In St. Louis Mayor John Poelker had long argued that the city's Board of Estimate and Apportionment was specifically created by municipal charter and was not therefore an agency or commission of the state government subject to provisions of the law. The board's meetings were being closed to the public.

A St. Louis Circuit Court judge issued a temporary injunction against the city in June 1974. That opinion

held that the board was in fact a governmental unit as defined in the statute.

A quirk in the Missouri Sunshine Law has also resulted in substantial confusion and has actually prevented dissemination of information that had previously been public. One provision prevents disclosure to the public and in some cases authorizes expunging arrest records which do not result in filing of charges or conviction.

Confusion on Arrest Records

The confusion which followed was enormous. In July 1974 Court Clerk Lewis Collins closed all records of court proceedings, minutes and transcripts to the public. His decision has been based on an opinion by St. Louis Assistant City Counselor Ed Peek. Although Mayor Poelker later pledged action to reopen some of the records, the incident shows the extent of the confusion as to the exact meaning of the arrest records provision.

No one was certain what the precise requirements of the law were. Attorney General John Danforth issued a 26-page memorandum purporting to interpret the law, but there was still uncertainty and confusion.

St. Louis County Prosecutor Gene McNary said in 1974 that arrest records are not subject to legislative action because they are not required by law to be kept. McNary also called the arrest records provision "extremely confusing and poorly drawn."

The squabble over the arrest records provision has in practice been preempted by the regulations issued by the Law Enforcement Assistance Administration under Title 28 of the U.S. Code. Those regulations, which affect all law enforcement agencies receiving LEAA monies – that is, virtually all of them – in the United States, has made any further discussion of the arrest records provision of the state sunshine law moot.

The whole dispute does, however, underscore the confusion generated by the law. It is noteworthy that in his analysis of state open meetings laws, John Adams, dean of the School of Journalism of the University of North Carolina, rates the Missouri law as only average, in terms of openness and enforcement potential.

It is also useful to note that a law is only good as long as it is used. Roderic Duncan, then deputy attorney general of California, said at a 1974 meeting of the American Bar Association's local government law section, that after it has successfully used a new open meetings law, a newspaper "is apt to abandon the law and leave it for use by the occasional dissident citizen."

When a law is so abandoned, reports of abuses may diminish and some officials may apply their own idiosyncratic interpretations to the law. Openness may consequently suffer.

Although there is no way to know whether this is happening in Missouri, it must be stated that the Freedom of Information Center at the University of Missouri has knowledge of fewer reported cases of violations in 1975 than in either 1973 or 1974. It may be, though, that most agencies are simply complying with the law. Given its built-in ambiguities, however, that may not be the case, either.

Wallis E. McClain, Jr. is the editor of the Freedom of Information Center Publications at Columbia, Missouri. Mary Serrill is a research assistant at the Center.

Significant Cases

The following summary lists some of the cases which have arisen as a consequence of the enactment of the Missouri Open Meetings and Records Laws.

1. Soon after the passage of Missouri's Open Meetings Law in September, 1973, Gov. Christopher S. Bond said (Columbia *Missourian*, 9-29-73) he would not ask the University of Missouri Board of Curators to comply. Bond said the wording of the law did not specify Curator committee meetings.

2. In October, 1973 the executive committee of the Board of Curators voted to adopt an open meeting policy, except when discussing matters that are specifically exempted under the law. Curators commented (Columbia *Missourian*, 10-12-73) that this policy was "above and beyond the call of duty" as required under the new law.

3. Berkeley, Mo. City Council executive sessions will be opened (St. Louis *Globe-Democrat*, 11-7-73) to the public. One hour's advance notice of these executive sessions is also required under the Missouri Sunshine Law.

4. The St. Louis County counselor's office interpreted (St. Louis *Globe-Democrat*, 12-5-73) the state Sunshine Law as saying secret sessions did not violate the law unless a vote was taken. Sponsors of the legislation say this is a misreading of the law.

5. An opinion issued (*Courier-Post*, 3-14-74) by the Missouri Attorney General's office stated that the Missouri commissioner of Agriculture does not have to make milk price information public, under the state's new Sunshine Law. The opinion said the information was not a record of business of a public body, but rather that of a private industry (Dairy).

6. The Missouri Senate said (Columbia *Missourian*, 3-21-74) the milk price records did come under the provisions of the Sunshine Law and threatened to declare the Attorney General's opinion null and void if it weren't changed. The House agreed with the Senate's decision. An extensive investigation of milk pricing practices in Missouri resulted.

7. The Missouri Supreme Court upheld (Kansas City *Star*, 3-10-75) an order by a St. Louis Circuit Court Judge that requires the opening of meetings of the Board of Estimate and Apportionment. The Board had argued that since it was created by city charter, it was exempt from compliance with the state's open meetings law. This was the first case to reach the high court since the law was enacted in 1973.

8. Missouri Atty. Gen. John C. Danforth ruled (Columbia *Missourian*, 7-20-75) that the hiring and firing ofanyone, including a Municipal Court judge, comes under the personnel exemption of the state Sunshine Law. At issue was the hiring of a replacement for former Municipal Court Judge Roger Hines. Many of the public and media felt that based on the high public position, nominees should be made known to the public.

9. A Circuit Court order prohibits (Kansas *City Star*, 7-20-75) the Joplin City Council from holding any meetings for which public notice is not given. The City Council had been in the habit of holding informal meetings for which no records were kept. The Joplin city council has appealed to the Missouri Supreme Court.

10. After months of conflict between the Missouri Public Service Commission and adherents of the Sunshine Law, a Missouri Court of Appeals ruled (Kansas City *Star*, 9-14-75) that some meetings could be held in closed session. The present chairman of the P.S.C. has decided to voluntarily open all meetings. The final official decision, however, will be taken up at the 1976 General Assembly which will convene in January.

– Mary Serrill

Attempt to reconcile open records and right to privacy in Illinois commission report

The advent of computer technology aside from the habitual inquisitiveness of public and private institutions has abridged the right to privacy of all citizens. In recognition of this threat, protective legislation has been proposed both on the federal and state level. In 1974, Illinois Governor Daniel Walker created a Commission on Individual Liberty and Personal Privacy and charged it with reviewing the collection and use of information which threatens individual privacy and with recommending specific measures, including legislation, to protect the right of privacy. Bernard Weisberg was appointed chairman of the Commission, Ellen Flaum, executive director and George Anastaplo, research director. The Commission ultimately proposed four Acts to the Illinois General Assembly. The Illinois School Student Records Act was enacted into law and signed by the governor. The proposed Illinois Fair Consumer Credit Reporting Act failed to pass in the Senate Public Welfare Committee. The proposed Illinois Personal Records Privacy Act was referred by the Senate Executive Committee for consideration by a subcommittee to be appointed. The proposed Illinois Public Records Access Act did not survive the third reading in the House and is one of the bills now being considered by the House Executive Subcommittee on the Public Right to Know. Following are excerpts from the Commission's Final Report issued on February 28, 1976. Readers interested in the full report and a copy of the proposed legislation can write to: **Commission on Individual Liberty and Personal Privacy, c/o Bernard Weisberg, 120 S. LaSalle Street, Room 1500, Chicago, Illinois 60603.**

INTRODUCTION

As the size and complexity of our society have increased, we have experienced a steadily growing demand by government and private organizations for personal information. Population mobility has made it necessary to develop the means to transfer and exchange information rapidly and efficiently. Technological advances, particularly in computer science and telecommunications, have dramatically expanded our recordkeeping capabilities by making it practical to store information about millions of people in cheap and easily accessible form.

Balancing the growing information needs and demands of government and business with the right to privacy of every citizen has become a crucial concern for Americans. If we are to preserve the confidence and trust of our citizens in both government and business, we must fashion reasonable limitations on the collection of personal information about individuals and make sure that the information which is collected is used with propriety and care. Unjustified invasions of personal privacy produce suspicion and fear on the part of the public at large and hence jeopardize the legitimate exchange of information essential for the day-to-day provision of benefits and services.

This Commission settled upon three areas in which it believed legislative initiatives in Illinois would provide increased protection of personal privacy.

The three areas settled on were school student records, consumer credit reporting and governmental recordkeeping practices. Although there has been Congressional activity in each of these privacy areas, useful work remains to be done in Illinois. Thus, federal laws relating to both the confidentiality of and public access to records maintained by government have no direct application at the state or local level; federal laws in the areas of consumer credit reports and school student records have serious limitations which this Commission believes should be dealt with by providing more effective safeguards at the State level.

Four legislative proposals to govern the acquisition and use of personal information in these areas were prepared by this Commission and circulated in draft form among professional groups and associations, public interest groups, and representatives of affected institutions and businesses.

This Commission then developed its final drafts and on December 31, 1974, submitted to the Governor its first two legislative proposals, a School Student Records Act and a Fair Consumer Credit Reporting Act. On February 6, 1975, its other two legislative proposals, a Personal Records Privacy Act and a Public Records Access Act, were sent to the Governor for his consideration.

On April 25, 1975, Governor Walker announced his support for the four legislative proposals recommended by this Privacy Commission, all of which were introduced in the General Assembly. In the First Session of the Seventy-ninth General Assembly, one of these bills, the School Student Records Act, was approved by the Legislature and was subsequently signed by the Governor.

Sec. I In transmitting its legislative proposals to the Governor, this Commission explained that there were two basic principles underlying its recommendations: first, that an

individual should be aware of and able to correct personal information recorded about him and, second, that he should, as much as is feasible, determine with whom and for what purpose that information may be shared.

Before specific rules to govern any given type of personal information system are formulated, it is necessary to examine that system in its own setting. Specific rules must be tailored to the unique characteristics of each type of information system. An invocation of broad principles of privacy rarely suffices. Rules for a school student records system, to take one example, may have to be quite different from rules for credit reporting agencies. Or, to take another example, extended study may be needed in order to devise rules for the many types of personal information systems maintained by government.

Any effort to formulate rules which serve both privacy interests and the needs of government agencies or private business may raise fundamental issues of procedural due process, contractual equities or fairness and social justice. Due process considerations may require that an individual have notice of any information maintained about him and of the manner in which that information is to be handled. Contractual considerations may dictate that an individual asked to furnish personal information should be able to depend on what he is told about how the information will be kept and used. Justice comes to bear in determining whether certain types of information may fairly be used as the basis for judgments by public and private institutions which affect individuals.

Thus, privacy emerges as a complex interest. A due regard for personal privacy often turns out to be a way of assessing and readjusting the distribution of power in our society. That is, questions about individual privacy often turn out to be questions about the proper relations between individuals and the massive institutions which both serve and threaten to overwhelm them.

It should be emphasized that the concern today for privacy and the need to protect the individual against improper use and dissemination of personal information about him remain whether or not the information is computerized. But the widespread and rapid growth of computerized information systems – systems which increase considerably our ability to collect, store, manipulate and disseminate information – has dramatized the urgent need to adopt protective regulations.

Furthermore, the current state of computer technology is such that the information storage and retrieval capabilities of computerized systems presently operating far sur-

A due regard for personal privacy often turns out to be a way of . . . readjusting the distribution of power

pass developments in control techniques, especially with respect to processing from remote data entry terminals. Consequently, it may often be technologically impossible for many automated information systems to comply with existing or proposed legislative controls. The representations as to safeguards made on behalf of some systems may not be presently susceptible of independent verification. In short, the controls anticipated by many legislative proposals go beyond existing computer practices and, as to certain problems, beyond existing technology.

The basic problem, it seems to us, is one of control, so much so that we are obliged to counsel that we probably should not collect what we cannot control. Unless we are able to govern and regulate the collection, use and dissemination of personal information, we cannot adequately protect our personal privacy.

Many legislative proposals have been made, and in some cases adopted by Congress and by State legislatures, in response to growing privacy concerns. These proposals have often had incorporated in them what has come to be termed a code of fair information practice. This code reflects the 1973 recommendations of the United States

Unless we are able to govern and regulate the collection, use and dissemination of personal information, we cannot protect personal privacy

Department of Health, Education and Welfare's Advisory Committee on Automated Personal Data Systems. Those recommendations rest on what the Advisory Committee considered "five basic principles" for the proper maintenance of record-keeping systems:

There must be no personal data record-keeping systems whose very existence is secret.

There must be a way for an individual to find out what information about him is in a record and how it is used.

There must be a way for an individual to prevent information about him that was obtained for one purpose from being used or made available for other purposes without his consent.

There must be a way for an individual to correct or amend a record of identifiable information about him.

Any organization creating, maintaining, using, or disseminating records of identifiable personal data must assure the reliability of the data for their intended use and must take precautions to prevent misuse of the data. [Records, Computers, and the Rights of Citizens, Washington, D.C. U.S. Department of Health, Education and Welfare, 1973]

These principles are embodied in the legislative proposals developed by this Privacy Commission. Thus, each proposal promotes informed consent on the part of individuals; each places the responsibility for the proper use of personal information on the collector of that information; and each makes public the expectations of all parties in the collection, use and dissemination of personal information. In order to implement its recommendations, this Commission has made every effort to use existing State administrative machinery.

Sec. II In recent years attention has been directed to record-keeping systems which affect virtually everyone in our society, the countless millions of records kept by schools about their students. Studies have shown that student recordkeeping has been generally unregulated, often haphazard and sometimes harmful.

Some remedial steps with respect to these matters have recently been taken by the federal government. A statute was enacted by Congress in August 1974 which requires the withholding of federal funds from any school which either has a policy of denying parents the right to inspect and review their children's school records or which allows the release of such records without the parents' written consent.

One critical defect of the new federal law is that its only sanction, the withholding of federal funds from non-complying schools, is so severe and so unlikely to be resorted to as to make it difficult to enforce the act effectively. On the other hand, the Illinois School Student Records Act prepared by this Privacy Commission provides for sanctions which are much more likely to be resorted to, including the availability assured to individual parents of administrative remedies at the local level and, if need be, the right to seek injunctive and other relief in Illinois courts. Perhaps even more important is that the

One objective of the Illinois Act is that of providing for the right of inspection and correction of student records . . . . The other objective is that of assuring . . . the proper use of records

Illinois Act provides more detailed guidance than does the federal law with respect to the types of information to be kept in school student records and with respect to the proper handling of that information.

Both of the principal objectives of the federal law are more fully developed in the Illinois Act. One objective is that of providing for the right of inspection and correction of student records by the student or his parents. The other objective is that of assuring both the proper use of records within the school system and suitable restrictions on the release of records outside the school system.

The Illinois Act, unlike the federal law, is limited to pre-collegiate education in this State. This Commission believes that the circumstances of higher education are different enough from those of pre-collegiate education as to require further study and experience before additional regulation of college and university student records is attempted. Concern was also expressed about initiating through such an act extensive State regulatory control over private colleges and universities in Illinois.

The following significant points not covered by the federal law are dealt with by the Illinois Act:

- As proposed by this Commission, the Act would have covered all pre-collegiate education, private as well as public, on the premise that the right of students and parents to examine and challenge school records and to prohibit the dissemination of such records without their consent is so vital for the protection of personal privacy that it should be accorded to all students and parents in the State. However, as enacted by the General Assembly, private schools are excluded from coverage under the Act.
- The Act provides that information contained in a student's record should be limited to that which is of clear relevance to the education of that student and requires that State school officials issue regulations to govern the content of records and to assure their periodic review for the verification of entries and elimination of inaccurate, misleading and unnecessary information.
- It limits the information which may be kept in school records after a student's graduation. Except for permanent records of attendance, courses completed, grades and similar data, the Act provides that material in a student's record shall not be kept beyond its period of usefulness or in any case not more than five years after the student has left the school.
- It requires that all information added to a student's record must be accompanied by the name, signature and position of the person who has added the information. This helps assure the student and his parents that recorded information will be more clearly directed toward the student's current educational needs and that any personal information exchanged or collected will be accorded the highest degree of confidentiality.
- It provides that notes or other recorded information about a student kept by a school employee or another person at the direction of the school for his own exclusive use shall not be considered part of that student's record. Such records must be destroyed by the time the student graduates and may not be disclosed to any third person unless they are formally incorporated into a student's record and thus made subject to the access and dissemination provisions of the Act.
- It entitles parents to prior notice and an opportunity to copy any student records which a school proposes to destroy.
- It preserves existing rules as to the confidentiality of any information communicated in confidence by either the student or his parent to a physician, psychotherapist or other school personnel.
- It applies to all student records existing on the effective date of the Act as well as to future records, but special provisions are made to avoid imposing unnecessary burdens with respect to previously accumulated records.
- It entitles parents to copy as well as inspect their children's school records.
- It directs the State Board of Education to issue regulations to implement the Act generally and to govern such matters as parental challenges to the accuracy, relevance or propriety of any entry in the school records of their children. Further, it entitles a parent to insert in his child's school record a statement of reasonable length of his position on any disputed information contained in that record.
- Finally, the Act protects teachers and other school personnel from any claim based on any statement or judgment entered in a school student record, absent proof of malice.

There is no doubt that the opening of student records to examination by parents, and ultimately by students, will affect existing relations among students, teachers and parents. It is this Commission's belief, however, that considerable harm is now caused by denying parents access to information which is properly their concern, especially when such information may be used in disciplinary proceedings, in the educational classification and advance-

The opening of student records . . . will affect existing relations among students, teachers and parents

ment of a student, and in the determination of academic and career opportunities. Indeed, it is the hope of this Commission that the Act will encourage the further development of responsible professional standards among school personnel with respect to the information collected and the judgments made which affect educational decisions about school children in this State.

This legislative proposal was introduced in the First Session of the Seventy-ninth General Assembly by Representative James M. Houlihan as House Bill 1884. The bill was considered and approved by the House Judiciary

Committee, with certain clarifying amendments proposed by its sponsor after consultation with the Chairman and Staff of this Commission. It was thereafter amended on the floor of the House of Representatives to exclude academic grades from the challenge procedure provided by this act. The bill was then passed by the House and was considered and approved by the Senate Education Committee. An amendment to exclude private schools from the coverage of the act was incorporated by the Senate Committee. The bill, thus amended, was approved by the Senate and thereafter by the House. Governor Walker signed the bill.

Sec. III It must be an unusual American who has not had his credit rating assessed as a result of applying for credit, insurance or employment. The basic problems are familiar from other areas in which systems of records compiled about individuals are used to make important decisions about what opportunities, benefits and services will be available to those individuals.

To work out these problems in the case of the credit reporting industry requires a balancing of the legitimate needs of business (including the business needs of would-be customers and employees) and the privacy interests of the individuals and families described in consumer credit reports.

Credit reports fall into two principal categories. First, there are the familiar reports which contain such information as where charge accounts are held and how promptly bills are paid. One hundred million of these reports are produced each year by some twenty-six hundred credit bureaus. Second, there are the investigative reports which go beyond information of this type to include assessments of an individual's character, general reputation, personal characteristics and "style of life." These are often obtained through interviews with one's neighbors, friends and (where applicable) ex-spouse and former employers or employees. An estimated thirty to forty million such reports are produced each year.

The first major attempt by the federal government to regulate the collection and reporting of information on individuals by credit agencies came in 1970 with the enactment of the Fair Credit Reporting Act. The F.C.R.A. provides, among other things, that an individual who is adversely affected because of information contained in a credit report must be so notified and given the identity of the reporting agency. He is entitled under that act to be given an oral summary of the information contained in his file and the identity of its recipients. Items disputed by the individual must be deleted if the information cannot be confirmed. He may also have his version of any disputed item entered in his file and included in subsequent reports to users.

This Commission believes that the system of consumer protection provided by the F.C.R.A. needs to be strengthened in several respects. An individual should be able to decide who may have access to information in his credit file and whether, in order to obtain credit, insurance or employment, he is willing to permit an investigation in which neighbors and others may be asked about personal matters. In order to make such decisions the individual must be aware of the kinds of information which may be collected about him and circulated to others. He should be entitled to see and inspect his file rather than to have to rely on an oral summary provided by the credit reporting agency.

This Commission also believes that an inquiring individual should be allowed to obtain a complete copy of his record, by mail if necessary, since he is often quite distant from the agency keeping such files. Users of such reports should be required to specify the information which triggered any adverse action by them. Without this information, an individual is at a serious disadvantage in attempting either to correct his record or to offer any explanations he may have with respect to elements affecting his interests. Franz Kafka's nightmarish *Trial* comes to mind.

This Commission's bill provides that no credit report of any kind may be released to anyone, except in response to a court order, without the specific consent of the individual subject. In order to avoid undue delay in the making of routine credit checks, the bill would permit the user of credit information – that is, a prospective credit grantor, employer, or insurance company – to obtain such consent on behalf of the credit reporting agency. In the case of investigatory reports the bill would not only require advance written authorization from the individual who is to be subjected to such an extended credit investigation but would also require that he be informed of the kinds of questions to be asked and the types of persons who may be questioned during such an investigation.

The bill would give the individual the right actually to see his file, not merely to receive an oral summary of its "nature and substance" as provided for under the federal act, and to obtain a free copy of it, by mail if necessary. This Commission believes that an individual must be accorded this right of inspection if he is to be able to make an informed decision whether to surrender some privacy in order to obtain the credit, job or insurance he seeks. This right of access includes the right to learn the sources of information contained in his file. However, the privacy of the potential informant is also respected in the bill: those who are asked to supply information about individuals would themselves be informed in advance that both the information they supply and the identity of its source will be made available to the subject of the information upon his request.

Confidentiality . . . must be balanced against the right of an individual to learn the source of unfair or inaccurate information about himself

This Commission recognizes the concern expressed by the credit reporting industry that sources can be expected to dry up or become quite cautious if confidentiality should be explicitly disavowed at the outset of an interview. But this Commission believes that that consideration must be balanced against the right of an individual to learn the source of unfair or inaccurate information about himself.

This legislative proposal was introduced in the First Session of the Seventy-ninth General Assembly by Senator Dawn Clark Netsch as Senate Bill 849. The bill was amended at that time by its sponsor, in consultation with the Chairman and Staff of this Commission, in order to direct attention to the more important consumer protection needs which had concerned this Commission. As originally drafted, the bill would have prohibited the release of any credit report without the prior written consent of the individual to whom it relates. The amendment would require such individual authorization only for the release of the more sensitive investigative reports; but it

would also require that when such a report is given to the person who requested it, a copy must be supplied at the same time to the individual who is the subject of the report (and who has consented to its preparation). This amendment would assure the rapid transmittal of those credit reports containing only data regarding the consumer's history of credit transactions, while protecting him from the improper preparation or distribution of reports which contain comments on his character, reputation and style of life. This amendment was formulated after consultation with a member of the Federal Trade Commission Staff, who advised that the principal abuses currently encountered by that federal agency in this field relate to investigative reports rather than to the routine reports of individual credit histories.

The bill, as thus amended, was considered by the Senate Public Welfare Committee on April 30, 1975. It failed, by a vote of 7 to 5, to pass out of that Committee.

IV Government at all levels represents the largest collector of personal information about individuals in this country. Such data collection is considered necessary to support and substantiate the citizen's rights and benefits, to protect society from violators of its laws, and to permit intelligent planning and budgeting of revenue and services.

The staff of this Commission conducted a preliminary survey of three dozen State government agencies in Illinois. The survey responses indicate that there is little uniformity or consistency among State agencies with respect to their criteria and procedures for collecting, using and disseminating personal information. In such circumstances the possibility of abuse of individual privacy is clear. This Commission decided to limit the coverage of its proposed legislation in this area to State agencies only.

The bill prepared by this Commission would require public notice of the existence of all personal information systems, automated and manual, operated by State agencies. Each agency would be required to file a separate statement describing the purposes of each system that it maintains, the kind of information collected, the uses to which such information may be put, the persons or agencies with which it shares its information, the provisions made for maintaining the confidentiality of the information it collects or shares, and the statutory or administrative authority under which each of its systems is operated. Such reporting would be revised annually. Additional reports would be required whenever a new personal information system is installed or an existing system is modified or expanded. All of these reports would be made available to the public, thus assuring citizens the opportunity to become fully informed about the nature and extent of the State's recordkeeping about individuals.

Each agency would also be required under the bill to establish administrative, technical and physical safeguards to protect the security and confidentiality of its personal information systems as well as to assure the accuracy and relevancy of the information in its systems. The bill sets forth the rights of individuals who are subjects of personal information systems maintained by State agencies. An individual is to be informed, at the time he is asked for personal information, what uses may be made of the information, the persons or agencies which may have access to it and whether furnishing the information is mandatory or voluntary. Individuals would have the right to learn whether information about them is maintained by a State agency, to see that information and to challenge its accuracy and relevancy. Certain exemptions are provided for current intelligence or investigatory files maintained by law enforcement or regulatory agencies.

It should be noted that agencies which maintain medical, psychiatric, psychological or personal evaluation material believe it necessary for them to place some limitations on access to such material by the subject. There are instances, they maintain, when full disclosure of extremely sensitive information can be detrimental to an individual and can jeopardize therapy or counseling. This Commission believes that this is a fundamental issue of social policy which can best be explored and resolved through full public hearings eliciting the views of the concerned agencies and of the public at large. Such an exploration was beyond the limited resources of this Commission. In addition, this is one of the areas now being studied by the Governor's Commission to Revise the Mental Health Code.

The bill prepared by this Commission would create a Privacy Board to serve as an advisor to individual agencies, the Legislature and the Governor with respect to issues of privacy and confidentiality. This Board would review the information policies and practices of the various State agencies. The Board would, at its discretion, conduct public hearings, providing an opportunity for citizens to comment on the nature and purposes of personal information systems operated or proposed to be operated by State agencies.

The bill also provides that the Privacy Board can undertake the mediation and conciliation of individual complaints under the act. If an individual has failed to obtain relief through the challenge procedures established by a State agency, he can file a complaint with the Board. Or he may seek relief directly through State courts after an unsuccessful appeal to the agency head.

The bill, it should be emphasized, does not give the Privacy Board regulatory or enforcement powers. This Commission believes that any single agency with authority to regulate the information practices of all State agencies is likely to be regarded by those agencies with considerable suspicion and distrust. In order to avoid an undesirable centralization of power and an undue interference in the operations of individual agencies, this Commission believes it would be best to give agencies the opportunity to bring their systems into compliance with the act. Even so, a Board with some regulatory and enforcement powers may, in the light of experience, prove to be necessary.

This legislative proposal was introduced in the First Session of the Seventy-ninth General Assembly by Senator Dawn Clark Netsch as Senate Bill 960. It was assigned to the Senate Executive Committee. That Committee, on April 29, 1975, referred the bill to a subcommittee for consideration in the Fall of 1975.

Sec. V A self-governing people needs to know, and to believe itself to know, what its government is doing. This requires that there routinely be made available to it information which is held and used by public servants. Such information is also needed if citizens are to be able to protect their rights intelligently, including their rights to privacy, and to make proper use of government services.

Public servants, in exercising the powers and in performing the duties entrusted to them, depend upon the confidence of the community. They cannot be sure of such confidence if the people at large remain uninformed, or believe themselves to be uninformed, about what is being done in government and why. The known availability of public records can do much to remove causes of suspicion and cynicism in a community, thereby allowing public servants to get on with their work.

The Public Records Access Act proposed by this Privacy Commission provides for what many citizens have, for a long time now, understood to be available from their government. Indeed, for many public bodies the bill

does no more than ratify what is already everyday practice in this State.

Procedures are set forth in the bill for inspecting and copying public records as well as for determining what may happen when access to records is denied. Denials are permitted in various specified instances. These exceptions are of the kind generally recognized as promoting governmental efficiency and commercial fairness. Thus, the bill proposes standards, both substantive and procedural, which permit citizens (whether in government or out) to know where they stand and what is expected of them.

The bill is different in several important respects from comparable legislation elsewhere. There is in the bill substantial provision for the personal privacy of citizens, except where there is a critical public interest in disclosure. The problem of how to protect personal information from inappropriate access by the general public is dealt with inadequately by all of the legislation of this type reviewed by this Commission. For this reason the manner in which the bill deals with the personal privacy interest should be emphasized.

Thus, unlike the other exemptions contained in the bill – which for the most part may, but need not be, invoked by public officials in denying public access to certain documents – this bill *prohibits* the public inspection or copying of information "the disclosure of which would constitute an invasion of personal privacy unless there is a compelling, demonstrable and overriding public interest in disclosure or such disclosure is expressly required by applicable law or is consented to in writing by the individual subject of such information." Furthermore, individuals may file suit in Circuit Court for relief against a violation of the provision protecting personal privacy.

It is not likely that the proposed prohibition (in the interest of privacy) of public disclosure of certain personal information would result in the unavailability of any significant category of public records which is presently open to public access and inspection. Even so, it is believed important to provide an assurance of continuing confidentiality to the millions of citizens, such as students, public hospital patients, and recipients of various services from State and local government agencies, who are the subjects of often quite intimate personal information entries in the files of government. This bill should, if enacted, assure citizens that the access they do have is theirs by right and should clarify both for the public and for public servants the standards and procedures which apply when access to public records is sought.

This legislative proposal was introduced in the First Session of the Seventy-ninth General Assembly by Representative Leland H. Rayson as House Bill 1820. The bill was considered and approved by the House Judiciary Committee on April 30, 1975. It survived Second Reading in the House of Representatives, only to fail upon Third Reading in the closing days of the legislative session in June 1975. It is one of the bills now being considered by the House Executive Subcommittee on the Public's Right to Know.

Further Recommendations by the Privacy Commission:

The recommendations of the Governor's Commission on Individual Liberty and Personal Privacy are, for the most part, implicit in the legislation it has proposed and in the report it has prepared. Some additional suggestions might usefully be made explicit at this point:

(1) Further legislation should be pressed for. Consideration should be given by concerned citizens, for instance, to amendments currently proposed to the federal Fair Credit Reporting Act which would provide some of the additional safeguards incorporated in the Illinois Fair Consumer Credit Reporting Act proposed by this Commission. Particular attention is called to the suggested requirement that when an investigative credit report is supplied to the person authorized to receive it, a copy must be supplied at the same time to the individual who is the subject of the report.

(2) This Commission prompted a pending study, by a committee of the Chicago Bar Association, of an apparent deficiency in rules governing civil litigation in Illinois. It appears that these rules fail to assure that a person who is the subject of subpoenaed records held by others will receive notice of the subpoena in controversies to which he is not a party. It is to be hoped that such practices may be systematically corrected by a public made aware of reasonable privacy concerns.

(3) It is recommended that a thorough examination be made of the considerable data collected by this Commission with respect to the information-gathering and the information-using practices of State agencies.

(4) Certain matters call for further study and deliberation. Among these are the handling of medical records for insurance and other purposes (especially in view of the prospects for increasing computerization and accessibility of medical records of individuals); intrusive telephone solicitation; intermittent governmental inquiries into the political opinions and associations of citizens; the need for and objections to compulsory "public" disrobing by school children in pre-collegiate physical education classes; and the extensive financial disclosures required of selected public servants in this State. Financial disclosure requirements, for example, came in for repeated discussion by the Commission as it received inquiries and complaints by individuals who believed that the required disclosure was a serious invasion of their privacy. Although the Commission recognizes the need to promote confidence in the integrity of public servants, it is obliged to wonder whether the present financial-disclosure requirements discourage many worthy citizens from government service and whether they are unduly intrusive with respect to many of the categories of public servants now subject to them. Also regarded by many as unduly intrusive are the lie detectors and other surveillance techniques to which employees and applicants

(5) In addition, it is recommended that there be considered an extension of the School Student Records Act to protect the interests of students in private schools, once there has been an opportunity to evaluate the effects of this recently-enacted act on the public schools of this State.

(6) It is further recommended that the constitutional officers of this State consider implementing by executive orders those parts of the proposed Personal Records Privacy Act and of the proposed Public Records Access Act which are applicable to the agencies under their respective jurisdictions.

(7) Finally, it is recommended by this Commission that there be established, at least once a decade, a temporary privacy commission composed for the most part of private citizens. Each such commission should survey enduring as well as emerging privacy problems in this State; suggest appropriate legislation; call public attention to coarsening "cultural" developments threatening those human sensibilities upon which an abiding respect for privacy rests; define privacy-related matters in need of extended study; and otherwise assess, correct and continue the work of its predecessor privacy commissions.

Citizen pressure passed sunshine laws

DONALD SINGER

"Let the sun shine in." The tradition-laden United States Senate, under pressure from Common Cause and other citizen groups, has opened its committee meetings to public scrutiny.

For years, Congress-watchers had scratched their heads in wonder. Public interest bills would enter the committee system and mystically emerge as special interest legislation. In 1973 the House of Representatives broke step with its sister chamber by opening its bill-drafting sessions.

The rules change, embodied in S Res 9, had been urged since 1973 by a bloc of senators led by Lawton Chiles (D Fla.) and William V. Roth (R Del.). Senate Democratic and Republican caucuses paved the way for full Senate acceptance of the change. On Jan. 15 and Jan. 16, respectively, the caucuses voted in favor of opening committee meetings and conferences. The "sunshine" drive also was aided by the lack of problems House committees had experienced after their bill-drafting sessions were opened to the public in 1973.

Earlier this year, Senate Democratic and Republican conferences endorsed rules changes to provide open committee and conference meetings. In a parallel move, Senator Lawton Chiles (D-Fla.) and 53 cosponsors introduced the Sunshine Bill, S.5.

The bill, reported unanimously out of the Government Operations Committee, extended open meeting requirements not only to Senate committees and conference committees, but also to 49 major executive branch agencies. The resolutions were referred to the leadership-dominated Rules Committee.

In a closed meeting on September 18 the Rules Committee by unanimous vote gutted the "sunshine" proposal. The committee substitute sought to retain the right of each committee to set its own rules on opening or closing "mark-up" sessions. Such a rule, if enacted, would have repealed last year's action of the Senate as a whole opening meetings of the new Senate Budget Committee. Moreover, all reference to the opening of conference committees was deleted.

The battle lines were drawn. On the one side, Senate Majority Whip Robert Byrd represented the Senate leadership and Rules Committee. On the other side, Senator Chiles and Senator William Roth (R-Del.) led the coalition of anti-secrecy senators and citizen groups.

The forces joined the battle on November 5, 1975, in a test vote on the Rules Committee substitute bill. The anti-secrecy coalition, seeking to restore strong open-meeting provisions, defeated the leadership substitute 16 to 77, adopting the Chiles resolution. Opposition to the "sunshine" package collapsed like a house of cards. The Roth Amendment on open conference meetings was adopted 81 to 6. Final passage was voted on the resolutions 86 to 0.

The next day, the leadership offered its last resistance. The efforts were futile. Weakening amendments were defeated. The Senate voted unanimously 94 to 0 to extend open meetings to the executive branch.

As adopted, the Senate rules required committees to open all meetings – including mark-up sessions – unless a majority of the committee voted in open session to close the meeting or a series of meetings on the same subject for up to 14 days. Meetings could be closed if the subject to be discussed concerned one or more of the following: 1) national security; 2) internal staff procedures; 3) criminal or other charges that could jeopardize an individual's reputation; 4) government informers or agents or a criminal investigation that should be kept secret; 5) trade secrets or financial or commercial information required to be kept secret; or 6) other matters that must be kept secret under federal statute.

Also approved was a proposal to open Senate-House conferences, traditionally the most secretive meetings in Congress.

Governmental agencies covered by the bill must meet openly in hearings, rule-making, quasi-judicial meetings, or votes on policy, except by public vote on any of ten specific grounds.

Those portions of the bill dealing with executive branch agencies must be passed by the House and signed by the President before they become law. Agencies such as the Federal Reserve Board, which lobbied against the Senate bill, are now active in the House. The fight is not over yet.

The House, the leader in openness since 1973, adopted on Jan. 14 new rules that included an amendment allowing a committee to vote in advance to close only a single subsequent day of hearings. Previously the rules permitted a committee to vote in advance to close a series of meetings on the same subject.

Also adopted was an amendment sponsored in the Democratic Caucus to open all House-Senate conferences except when either chamber's conferees voted in open session to close them. Each vote was to apply only to one session of the conference, separate votes would be required to close it each day. The amendment did not take effect, however, until the Senate adopted its similar resolution Nov. 5.

At this writing committee meetings have been held in the House and open meeting legislation will probably reach the floor of the House early this year.

Three years ago reformers had trouble lining up cosponsors and the savvy Majority Whip Robert Byrd easily defeated similar moves.

The new rules produced an immediate reduction in closed sessions. Only 4.8 per cent of the Senate committee meetings were closed after the new rules were adopted, compared with 15 per cent for the year as a whole.

Donald Singer is a Clayton, Mo., attorney practicing in Missouri and Illinois. He has been a member of the Missouri state governing board of Common Cause since 1973 and is currently state issues chairperson of Common Cause.

COMMITTEES OPENED 93% OF 1975 MEETINGS

Congressional committees opened their doors to the public and press in record numbers in 1975, continuing a trend begun in 1973 with the adoption of House and Senate rules aimed at keeping closed sessions to a minimum. Stricter Senate open-meeting rules adopted in 1975 further increased public access to the workings of committees.

Most significant were the inroads made into the traditional secrecy of bill-drafting or mark-up sessions and of House-Senate conferences, where differing legislation from each chamber is melded into a single bill.

Only 7 percent of all congressional committee meetings were closed in 1975, compared with 15 percent in 1974 and 16 percent in 1973. In the House, where open-session rules had resulted in only 10 percent of the meetings being closed in 1973 and 8 percent in 1974, only 3 percent of all committee meetings were held behind closed doors in 1975. The Senate, which continued to lag behind the House in opening meetings, registered 15 percent closed meetings in 1975, down from 25 percent in both 1973 and 1974.

Hearings continued to be the type of meeting most often opened to the public. Only 5 percent of all congressional hearings were closed. The public was barred from fewer than 3 percent of House hearings and 8 percent of Senate hearings.

In mark-ups, where the greatest strides in openness occurred, the Senate closed only 29 percent of those sessions compared with 72 percent in 1974. The House closed only 2 percent of its mark-ups in 1975.

Debate Persists

The fact that more mark-up and conference committee sessions were opened failed to quell the controversy over whether it is beneficial and efficient to work out legislation in public. Some members felt that the disadvantages outweighed the benefits.

Pros and Cons

Open meetings "have polarized the parties a little more," House Administration Chairman Wayne L. Hays (D-Ohio) said in an interview.

Furthermore, no "face-saving" way exists for a member to back down from a publicized position, he said. "This has slowed down the legislative process." But "the most insidious part" of open meetings is the behavior of lobbyists, he said, and "seeing them passing notes to members in conferences."

Senate Public Works Chairman Jennings Randolph (D-W.Va.), by contrast, expressed satisfaction with his committee's experience at drafting all bills in public during 1975. "Open mark-ups haven't inhibited members in discussion, but have helped in development of balanced legislation," Randolph said. "Members prepare even more thoroughly" when sessions are open.

"Open mark-up sessions also have been a plus from the standpoint of accuracy," he added. "They have all but eliminated inaccurate and incomplete reports."

Sen. John Glenn (D-Ohio) voiced objections that open mark-up sessions had limited the scope of discussions.

Several senators and representatives interviewed by CQ also said that private meetings increasingly were cropping up to help members prepare for open meetings.

More 'Sunshine'

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Senate Committees

All Senate committees reduced the percentage of meetings they held behind closed doors in 1975. Eight percent of all hearings, 29 percent of mark-ups and 69 percent of committee business meetings were closed to the public and press. In 1974, 14 percent of hearings, 72 percent of mark-ups and 57 percent of business meetings were closed.

Committees having the highest record of closed mark-ups were four of the most powerful: Labor and Public

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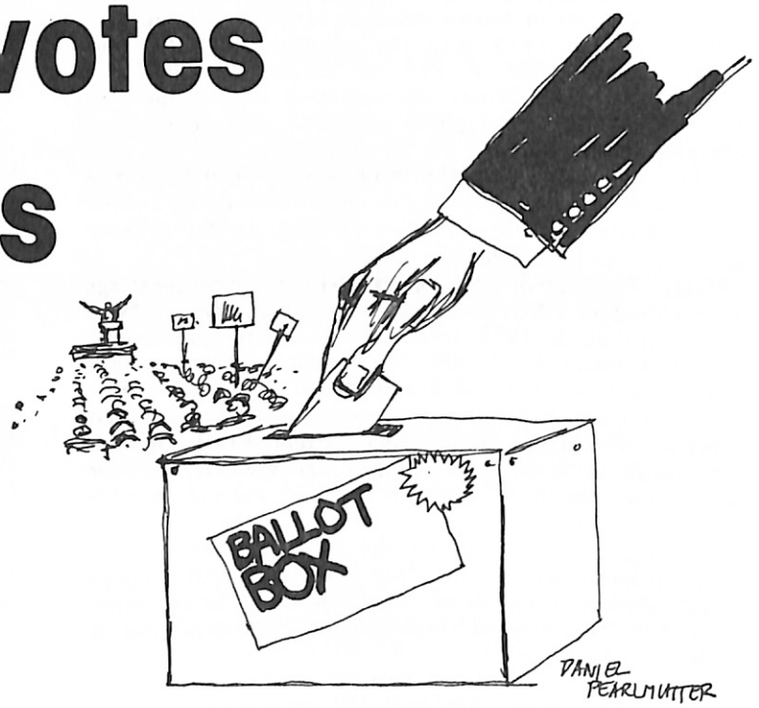
Democratic aspirants hunt votes shun issues



RICHARD MANNING

"The challenge of this convention is to discover whether we can begin to develop common governing principles to replace those of the New Deal, and to provide the public with a positive vision of the future that is founded on sensible solutions."

A lofty and noble goal, to be sure, expressed by the organizers and chairmen of the first Democratic Issues Convention in November in Louisville, Ky. The idea was to call together some of the best brains in the Democratic Party who, along with its brighter political stars, its activists and its rank and file members, would examine the more pressing issues of the day and set the agenda for the 1976 presidential campaign.

"What happens is issues often get sidetracked in the heat of a campaign when everyone is worrying about votes, about strategies and about tactics," said Keith Haller, the young director of the Democratic Forum and one of the people from whom the idea of the convention came. Four years ago, Haller was crunching through the New Hampshire snow trying to get the Democratic nomination for Sen. Edmund Muskie. But William Loeb and his *Manchester Union Leader* (and perhaps Charles Colson as well) had other ideas and Haller saw what seemed to be a promising campaign evaporate.

Turning adversity into opportunity, Haller went on to help launch the Democratic Forum, an independent, nonprofit group dedicated to fostering a discussion of issues within the Democratic Party. The issues convention would be the centerpiece of that effort as well as a showcase for the many presidential candidates and a starting point for the race to the New York City nominating convention.

The forum signed up all sorts of stars to attract delegates and the press. The triumvirate of co-chairpersons would be Michigan Sen. Philip Hart (Mr. Integrity in the U.S. Senate), Texas Congresswoman Barbara Jordan (black, female and one of the most articulate people in Washington) and Leonard Woodcock, the powerful president of the United Auto Workers. Historian Henry Steele Commager would give the convention an historical anchor while author Alvin Toffler would chart the choppy waters ahead. Three pollsters would report on the moods of the electorate and three thoughtful position papers on the federal bureaucracy, economic growth and foreign policy would be presented to panels of experts. The candidates would appear at three forums on growth and energy, foreign policy and law, order and justice and they would be questioned by delegates and by experts.

Sen. George McGovern would come in on the final day of the convention and give a pep talk and then a couple of party planners would try to make sense of the whole thing.

Washington snubbed

Louisville was chosen because, according to Haller, "We wanted to get out of Washington." The air gets a bit rarefied in the capital, the visions a little narrow and the talk a bit self-serving. And there is that feeling that folks out in Cleveland and Omaha don't take what goes on in Washington all that seriously, anyway.

Louisville Mayor Harvey Sloane, an energetic 39-year-old physician who was elected in 1973 by one of the

largest margins in the city's history on a "new politics" platform of citizen participation, heard that the forum was looking for a site in the Midwest and he virtually tossed them the key to the city. Democrats have almost complete control of Kentucky and the party is strong and affluent, so there would be financial support and plenty of local Democrats around.

So the forum set up shop in the Galt House, a gaudy new hotel that overlooks the Ohio River, and in Louisville Gardens, a reconditioned armory that usually caters to rock bands and wrestlers, and started the show on Friday, Nov. 21, 1975.

"The startling news is that . . . business . . . and government . . . are thought to be out of touch." – Louis Harris

There were problems. First came the defections by the candidates. Former Sen. Eugene McCarthy, apparently feeling he no longer has any need for Democrats, said he wouldn't be there to take part in one of the candidate forums. Fred Harris figured the $20 registration fee would freeze out the poor working folks that he calls his constituency and he pleaded a schedule conflict. Terry Sanford, former governor of North Carolina, pulled out at the last minute and George Wallace, who knows a gathering of pointy-headed intellectuals and Eastern liberals when he sees one, didn't even bother to reply to the invitation.

Rep. Philip Burton cancelled, leaving the discussion of revamping the federal bureaucracy in the hands of a governor, a former governor and a mayor. Sen. Frank Church decided he couldn't make it to talk about a new foreign policy and Philip Noel, the governor of Rhode Island and chairman of the party's platform committee, who was going to take the weekend's worth of knowledge and plug some of it into the campaign platform, also bailed out.

The speakers on opening day painted little more than a picture of gloom and despair. Three pollsters – Louis Harris, Pat Cadell and Peter Hart – profiled an increasingly cynical and pessimistic America, its people rapidly losing faith in political leaders, in traditionally honored institutions and in the economic system. That the public disdains politicians was not news, but that a majority of Americans now also lack confidence in doctors, scientists, the military and college educators was indeed unsettling.

"The startling news," said Harris, "is that the two institutions which I was raised to believe knew what the American public wanted – business because it could sell its products and government leaders because they could at least get elected – are thought to be out of touch."

Cadell, in turn, reported that the number of people who classify themselves as optimists has dropped from 75 per cent in 1964 to 25 per cent today. A decade ago, he said, only 3 per cent of the population thought it was worse off than 5 years before. Now, 25 per cent give that response.

Hart used the results of his poll for the People's Bicentennial Commission to argue that Americans are ready for radical changes. The poll showed that 58 per cent believe that major corporations dominate and determine the actions of government while only 25 per cent believe the reverse is true. By a split of 49-45 per cent, people believe that big business is the major cause of what is wrong with the country today.

The polls also showed that the populace has little faith in the ability of politicians to change the situation. Cadell said 42 per cent don't think it makes any difference who is elected and Harris said 71 per cent reject politicians because "they treat the public as though it has a 12-year-old mentality" and can't take the hard truth on most issues. Harris said the electorate will reject both the demagogic appeal, on issues such as busing, and the easy promise, offering special favors to each interest group. What we'll see instead is a disintegration of the old conservative-liberal poles, with former conservatives calling for government controls on big business and former liberals criticizing the federal bureaucracy.

On the gloom bandwagon

Commager and Toffler also jumped on the bandwagon of gloom. Commager said the Founding Fathers would call America today a "police state." The military "has militarized the civilian branch of government, instead of the other way around" and "America has become the world's leading merchant of death." He mourned the absence of leaders like Washington, Jefferson and Franklin and said political leadership today has declined because we have become content with "the conventional and the mindless . . . with passivity and inaction."

Toffler also said things had gone halfway to hell, but the author of *Future Shock* had a more cosmic explanation for the situation. He said the quickened pace of the post-industrial age was "rapidly demassifying" our mass culture, scuttling the American way of life and turning political parties into "museum pieces." Toffler's tonic for future blues was participatory democracy on a grand scale; nationwide referenda, "bottom-up" planning, passage of a National Participation Act, creation of a National Institute for Participation, scrapping the Constitution and writing 50 constitutions, offering them up for a national debate. The mind boggled.

But party chairman Robert Strauss brought the convention back to earth and reassured the delegates that the party had not lost control to the crazies. He said it should cast off the pall of its "national pessimism" and halt its retreat from the New Deal heritage.

"People don't want less government, they want better government," he said.

Perhaps the party has promised too much, "but is the answer to cease to promise?" The American Revolution, after all, was a promise and probably an overpromise at that, he said.

With the lofty rhetoric out of the way, delegates on Saturday could get down to the real business at hand, a thorough hashing of the major issues. Of the three panel discussions, the one on restructuring the country's economic system seemed the most promising. Two economists from the John Hay Whitney Foundation had prepared a position paper for the session calling for some radical revisions in the system: mandatory placement of consumer and community representatives on the boards of major corporations; breaking up of multinational business empires; a guaranteed job program with the federal government, as employer of last resort, putting people to work on jobs such as repairing rail beds; public control of major energy corporations and government allocation of business capital. The National Observer headlined a story on the proposal "Socialism, U.S. Style" and a Louisville Democrat who had helped sponsor the convention said the whole idea was Communistic.

Two of the panelists kept the proposal at arm's length. Charles Schultze, director of the Bureau of the Budget under LBJ, said specific responses to specific problems are preferable to mammoth master plans. He suggested com-

bining tax policy with wage and price guidelines.

"There are no answers, there are only improvements," he said.

Alan Ferguson, director of the Public Interest Economic Center, said a vigorous anti-trust policy would be the prime means for reaching full employment and a minimum income level.

Only economist John Kenneth Galbraith embraced the proposals in the working paper, saying the call for an "economic democracy" should seem sensible "to all but the irretrievably orthodox." That said, he went on to exhort Democrats to avoid what he called "the Conservative Majority Syndrome" and resist the notion that the country is moving steadily toward the political right. Galbraith hung around for the last two days of the conference to speak at small delegate discussion groups. Socialist author Michael Harrington, too, conducted small rap sessions on Socialist economic alternatives.

But despite the reigning notion that "dollars and sense" would be the key political issue in the 1976 campaign, most of the delegates had had enough of the dismal science.

The intrusive issue

Organizers of the convention had carefully tried to narrow the scope of the issue discussion to areas that were broad enough to permit open debate but narrow enough to retain continuity. But when they set up the agenda, they failed to reckon with a few thousand people in suburban Louisville who thought that court-ordered busing was the only political issue worth a damn. A protest march called by a group called United Labor Against Busing revised the agenda.

The busing opponents, seeing a golden opportunity for national coverage of their cause, arranged a march on Saturday morning of the convention. It wasn't supposed to come closer than one block from Louisville Gardens but marchers broke ranks and massed in a parking lot across from the hall. They waved Wallace posters, chanted anti-busing slogans, taunted blacks and let the air out of the tires on several cars. Five busloads of police closed the street and formed a line between the protestors and the hall. Air ducts in the hall were closed in anticipation of tear gas outside and the doors were locked, keeping the conventioners inside.

The national press had paid little attention to the march when it started or to a competing march of 150 or so mostly black busing supporters. But when it looked like a confrontation was brewing, they deserted Rep. Morris Udall's press conference and took to the streets, their fingers itching to file a dispatch comparing the Louisville gathering to the 1968 Democratic National Convention in Chicago. It was just what the protestors wanted.

"All we're looking for is national coverage," said Kentucky State Rep. Robert Hughes. "Out on Preston Highway (the scene of rioting in September) they wouldn't notice us."

Black Caucus – NDC Push Employment Bill

Outside the Conference, the Congressional Black Caucus and the New Democratic Coalition jointly organized a caucus on unemployment. The discussion was led by Cong. John Conyers, Barbara Williams (executive secretary) for the Black Caucus, Billie Carr, Bernie Sorokin of NDC, and Walter Fauntroy. Included in this program was a push for the Hawkins Full Employment Bill.

When the parking lot crowd reached a worrisome size, Louisville Police Chief John Nevin went inside the hall and came out with Mike Barnes, an official of the Democratic Forum, who tried to placate the crowd. Barnes, speaking through a bullhorn, told the crowd that Democrats "are not blind to the concerns of the American people." The crowd responded by chanting "Bullshit! Bullshit!" Finally Bill Kellerman, a Ford Motor Company foreman and the leader of the protest group (Woodcock had earlier characterized Kellerman as an "outsider" with no union ties), was brought inside the hall for a conference with the convention leaders. He then told the protestors to go home with the promise that the convention would hear from one of the anti-busing supporters in a statement from the floor on Sunday.

Kellerman then went down the hall and talked with Udall who had left word that he would speak with the protest leaders if they wanted to talk to the candidates. After a short uneventful discussion amid a sea of whirring cameras and scribbling reporters, Michigan Rep. John Conyers, a black from Detroit, entered the room to talk to Udall about a full employment bill in Congress. Conyers was eventually drawn into a conversation with Kellerman and the cameras kept on rolling. The two reached vague agreements that there is sentiment against busing among both races and that a common ground might be reached over a kitchen table and a bottle of bourbon.

McGovern also admonished the party to warn any candidate "who turns to the tactics of racial division and fear . . . that we cannot support him even if he is the nominee."

Conyers, who had earlier refused to lead the pro-busing march, told Kellerman that there was one thing he could do to improve the situation: "Get your people to stop shouting 'Get the niggers.' "

Convention organizer Joseph Duffy hunted up Louisville newsmen and assured them that Mayor Sloane – whose aides had been not-so-discreetly mentioning their boss as a possible vice presidential nominee – had argued to include a discussion of busing on the convention program. Duffy, who feared that the issue would dominate the convention, claimed responsibility for scrubbing the idea. Jim Luckett, one of the protest organizers, made a brief statement from the floor Sunday asking the Democrats to oppose busing and the delegates thought they were done with it. But Preacher McGovern had other ideas.

McGovern to the pulpit

Scrapping his scheduled speech topic, "The Democratic Challenge," McGovern delivered a stern, impassioned defense of busing and warned that the party that lost its conscience on the Vietnam War could ill afford to "sell its soul on the busing issue." Busing is not the only thing that is forced, he said.

"Black families do not volunteer to make their homes in substandard slum housing . . . What of the forced lashings and the forced lynchings and malignant neglect of forced hunger and helplessness – all of which came before forced busing?"

McGovern also admonished the party to warn any candidate "who turns to the tactics of racial division and fear . . . that we cannot support him, even if he is the nominee."

The speech embarrassed the convention planners because it emphasized what some newsmen already were

versy, trying to get press coverage and trying to be all things to all groups.

"I'll do whatever you want," Udall told the pro-busing group as he argued that they should really be concerned about beating Wallace and getting a Democrat into the White House instead of their local busing problems. It was not the kind of strong partisan appeal that the group was there for.

Indiana Sen. Birch Bayh and Pennsylvania Gov. Milton Shapp were paired in the forum on crime and justice. Both called for law enforcement tempered with court and prison reform, both backed gun control measures and both said they had resisted anti-abortion laws.

Nobody paid much notice to Shapp as he slipped quietly in and out of Louisville. But Bayh was picketed by groups calling for constitutional amendments to stop busing and abortions. He spent only a few hours in the city, making a hasty exit after his appearance and a press conference.

His treatment of the affair angered many of his Indiana supporters who had come to see their homegrown candidate and the dearth of activity at his hospitality suite Saturday night testified to their disappointment.

The panel on foreign relations included Sargent Shriver, McGovern's running mate in 1972, former Georgia Gov. Jimmy Carter and Washington Sen. Henry Jackson. Shriver, quoting Kierkegaard, Camus, Thomas Paine and Kurt Vonnegut, said the U.S. is "acting more like international Tories" than descendants of revolutionaries. He urged a foreign policy that would recognize moral obligations instead of "keeping silent about issues of moral and practical concern . . . out of fear that we will offend the Soviet leadership."

Carter also called for a moralistic foreign policy while Jackson virtually ignored the panel topic and used his time for a general political speech covering a wide range of topics.

The most lasting impression Shriver made was the image of all the Secret Service men who surrounded him. While most of the candidates were guarded by the clean-cut men with plastic tubes in their ears, Shriver seemed to have more than most. They guarded the hallway of his hotel room and frisked visitors to Shriver's hospitality suite even before the candidate arrived. Perhaps fear comes with his Kennedy legacy.

Carter, who hadn't been seen much in the Midwest, impressed reporters with his calm, selfless and seemingly honest approach. He emphasized his "zero budgeting" concept for trimming the federal bureaucracy the way he did Georgia's and talked with absolute confidence about his ability to beat Wallace in Florida and most anywhere else, for that matter.

Jackson, not one to be called inhospitable, had two hospitality suites in the Galt House hotel, one for labor and the other for the plain folks. He visited both on Saturday night, slapping a lot of backs and talking rather too loudly. His press aides hustled poll tabulations showing him ahead of other candidates in seven states. Some of the polls, however, were six months old.

Although Harris had snubbed the convention, a cadre of staff aides and volunteers rented a hospitality suite in the hotel and covered the place with posters and bumper stickers. Offering beer and pretzels, the Harris suite was filled with earnest-looking, long-haired youngsters and curious middle-agers.

Wallace may have ignored the convention, but the convention couldn't very well ignore him. The anti-busing crowd that gathered outside Louisville Gardens on Saturday waved Wallace posters and chanted "We Want Wallace." It gave the whole convention a spooky air as if all the rest were merely playing out their hands while the man in the wheelchair held all the aces.

Next to Wallace, Hubert Humphrey was probably the most talked-about presidential aspirant who was not there to make his own case. He had no organization in Louisville, but some of the old-line labor leaders defended him to young upstarts in the smoke-filled hospitality rooms. Small cards started appearing around the convention hotel saying what the country needs is not a 5¢ cigar but a "seasoned, experienced politician."

And Humphrey left his mark on the gathering when, at one of the closing sessions, Peter Hart reported the results of a preference poll of 984 of the delegates. Bayh, Udall and Carter placed second, third and fourth in the poll but there on top, almost grinning at all the rest, was Hubert.

Richard Manning is a Louisville newspaperman.

saying in their stories: that the issues convention had ignored one of the most pressing issues of all. And it infuriated Mayor Sloane, who thought it inappropriate for McGovern to be so outspoken on such a sensitive local issue. But it pleased many of the delegates, who thought that some plain speaking and some moral defense of integration was certainly called for. After all, hadn't historian Commager just two days earlier chastized the politicians for taking the easy, conventional routes and eschewing the deeper moral questions? The Louisville newspapers thought McGovern's remarks quite appropriate and the *Louisville Times* praised him for clarifying the issue and choosing "conscience over expediency."

The busing issues aside, the convention generally received good marks and a reasonable measure of credit for approaching its goals. Pollster Hart told the delegates on the closing day that they weren't exactly the mainstream elements of the party, but they were probably the more active and interested partisans.

According to Hart's data, 73 per cent of the polled delegates described themselves as liberals. Midwesterners outnumbered easterners by about 2-1 and a total of 35 states were represented. About 20 per cent of the delegates represented unions (148 from the UAW alone) and many others represented special interest groups like Common Cause, the National Women's Political Caucus, the Democratic Socialist Organizing Committee and about 40 others.

While some of the delegates complained of too much talk and not enough action, many others praised the convention for at least providing the kind of issues forum that they had seldom seen in past political years.

David Cohen, president of Common Cause, said the convention reflected the tensions and the competing interests within the party by mixing the older New Dealers in with the practitioners of the New Politics and matching the traditional special interest groups against the newer public interest organizations.

Stewart Mott, a heavy financial backer of McGovern's 1972 campaign, said the conference didn't bring him any closer to choosing a presidential candidate but Collin Simmons, a United Mine Workers member from West Virginia called the convention "an interesting way to get a better insight into each of the candidates."

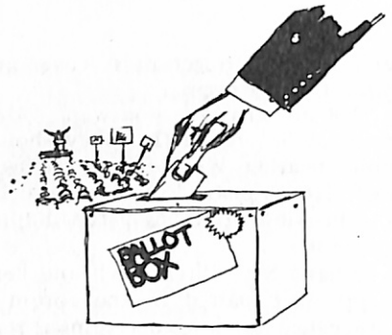
Jerry Tucker, a young community action program director for UAW Region 5 in St. Louis, said he has seen a lot of political gatherings but he was generally enthusiastic about the Louisville experience. The convention, he said, was a "modern-day whistlestop" and even if one candidate failed to emerge from the crowd and even if no clear consensus on issues was reached, the experience was nevertheless valuable.

"None of the previous conferences (such as the five regional conferences sponsored by the Americans for Democratic Action) have put the issues in front of the candidates. They've let the candidates put the issues in front of the people," he said.

In Louisville, some of the possible platform issues were kicked around by people who knew what they were talking about and the candidates, too, were questioned by experts and challenged by delegates.

"And I think some of them got a few (of the candidates) by the short hairs."

The convention was "a call to people to come and hear about the issues" and that's important, Tucker said. Because, despite what the experience of political personality parades of the past few elections have indicated, "the issues are still more important than the candidates."



The candidates

The first Democratic National Issues Convention was supposed to shift the focus of political discussion from personalities to ideas. But many of the 2,000 delegates who came to the convention came to look over the bumper crop of presidential aspirants. What they saw were seven middle-aged men, most of them sporting gray hair and pin-striped suits and surrounded by Secret Service men, who bustled into town for a few hours, made brief appearances before the convention, and then hustled away like Mad Hatters on their way to some vague, puzzling tea party.

Some grabbed a bit more press coverage than the others and a couple even took mild jabs at their competitors, but they were all upstaged by non-candidate Sen. George McGovern, whose impassioned speech defending school busing for desegregation of schools seemed to make the only powerful impression on the delegates. McGovern, it seemed, had come to the convention with something to say while the others merely made a whistlestop appearance on their way to somewhere else.

Not all of the 10 declared candidates came to Louisville. Former North Carolina Governor Terry Sanford, Fred Harris and George Wallace were not there.

The seven candidates who did show were divided among three panel discussion sessions. Each session was assigned a topic, and after delivering short statements, the candidates were questioned by a panel of experts and by delegates.

Arizona Rep. Morris ("Call me Mo") Udall shared the first candidate forum with Texas Sen. Lloyd Bentsen on a subject well-chosen for both: energy and growth. Bentsen, who had said earlier that some of his advisors thought the convention might be too liberal for him, argued that continued economic growth is the key to curing unemployment and growth, of course, means more energy. He defended his vote against ending the oil depletion allowance by saying that he wanted to give a break to the small oil producers.

Udall Tries to Mediate

But Udall said growth could be limited, energy conserved and unemployment reduced by channeling economic development into manufacturing and service areas instead of energy development. Bentsen's staff people were swarming all over the convention, buttonholing reporters and touting the panel discussion as a classic growth-no growth confrontation. But Udall got more than his share of coverage when he asked to meet with one of the leaders of an anti-busing protest crowd that had gathered outside the convention hall. He was the only candidate to seek such a meeting and he caught hell for it later in the day from a mostly black delegation of busing supporters. They accused Udall and convention organizers of catering to group that is supported by racist elements.

Udall appeared to be both a mediator between the two busing groups, trying to maintain intellectual honesty while attempting to find common ground, and a crass opportunist who was injecting himself into a local contro-

ANNUAL INDEX

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COMMITTEES

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Welfare (75 percent), Armed Services (69 percent), Appropriations (69 percent), and Foreign Relations (67 percent).

House Committees

The House continued in 1975 to reduce its percentage of closed meetings. Fewer than 3 percent of all House committee meetings were closed, compared with 8 percent in 1974. Fewer than 3 percent of committee hearings, 2 percent of mark-ups, and 7 percent of business meetings were closed in 1975.

Committees with the highest secrecy scores continued to be those handling military, intelligence and foreign affairs issues. Select Intelligence closed 24 percent of its hearings; Armed Services closed 10 percent of its hearings and 41 percent of its mark-ups; International Relations closed 8 percent of its hearings, but only 2 percent of its mark-ups.

On the greater openness of Armed Services, Rep. Ronald V. Dellums (D-Calif.) said, "The removal of former committee chairman [F. Edward] Hebert was a major jolt. That was a repudiation of a tightly run committee which had been a rubber stamp for the Pentagon."

Joint Committees

Joint committees closed 7 percent of their meetings in 1975, compared with 16 percent in 1974. The Joint Atomic Energy Committee reduced its closed sessions from 30 percent in 1974 to 14 percent in 1975. The Joint Economic Committee held a single closed hearing on Defense Intelligence Agency budget allocations, after having no closed sessions in 1974.

THE RIGHT WING

BUSINESS ROUNDTABLE BECOMES A SUPER LOBBY

A loose affiliation of industrial executives called Business Roundtable has converted itself from a group of salesmen for free enterprise into a potent, well-organized lobby for big business across a wide front.

In February of last year, the organization had teamed with *Reader's Digest* to sponsor a series of articles extolling the virtues of business. On November 16, the New York *Times* reported on page one that the Business Roundtable killed a bill in Congress which would have given the 50 state attorneys general authority to bring treble damage suits for violations of the antitrust laws.

Congressman Wright Patman, the liberal Democrat from Texas, put the *Times* article in the *Congressional Record* with a reminder that the Business Roundtable helped defeat an effort two years ago to have Congress audit the books of the independent Federal Reserve System.

The organization has a New York City office as well as a Washington office where its Executive Director, John Post, is a registered lobbyist. The *Times* reported that the Roundtable has 158 corporate members who include "the three largest automobile manufacturers, the three largest banks, seven of the largest oil companies, the largest steel companies, major retailing organizations and many of the largest utilities, including American Telephone and Telegraph Company." The annual budget was put at about $1,500,000.

Supplementing the formal budget are the lobbying efforts of corporate executives, such as general counsels and plant managers, brought to Washington for specific lobbying assignments.

Other issues in which the Roundtable is involved include decontrol of oil and gas, tax status of international corporations and environmental legislation. It recently boasted that it worked "in concert with some 30 other organizations" against the common situs picketing bill which is favored by labor.

One of the items distributed from the Washington office is a 1975 public opinion poll on "unions today," which is highly critical of organized labor. It was conducted by Opinion Research Corporation of Princeton, N.J., an outfit used frequently by the National Right to Work Committee and other conservative groups.

COMM. TO RESTORE THE CONSTITUTION

America is experiencing a sophisticated revolution within the federal government to destroy the Constitution, a retired Army colonel said, according to Tom Drape of the Kansas City Times staff.

Archibald E. Roberts said he believed power held by appointed officials in the federal government is a threat to the Constitution.

"There is a criminal element in Washington that is trying to overthrow the Constitution," Roberts, director of the Committee to Restore the Constitution, said. Roberts later spoke to about 75 persons attending the annual dinner of the Heart of America Conservative Club in Overland Park, Kansas.

When former President Richard M. Nixon formed 10 federal regions in 1969 for the distribution of grants and administration of federal programs, Roberts said, he began eliminating the independence of

the states and the people.

"Nixon became a criminal when he divided the country into 10 federal regions. First he violated his sworn oath as President to uphold the Constitution and further he specifically violated the Fourth Amendment that prohibits the consolidation of two or more states," he said.

Roberts conducted a 7-day tour in December through Missouri and Kansas for political support in the state Legislatures to begin investigations of regionalism. His Constitution committee has chapters in all 50 states.

Roberts also spoke at a dinner given by the committee and the Discussion Club of St. Louis. In what he called off-the-cuff remarks, he said former Los Angeles Mayor Sam Yorty had a Communist background.

ROBERT DEPUGH ACTIVE ON MANY FRONTS

Robert DePugh, the founder of the paramilitary Minutemen, was out of circulation in the early seventies, part of the time a refugee from a national firearms investigation and part of the time in prison after being caught. When he was paroled, DePugh did not ostensibly revive his extremist group of gun-toters and hiders, but he did take to the political route. Last year he sponsored a meeting of far-right groups and set up a coordination known formally as the Patriots Inter-Organizational Communications Center, based at his Norborne, Missouri, Biolab Corporation, a successful family business.

In addition, DePugh is into the following operations:

- Publishing the *Armed Citizen News,* a 36-page pro-firearms tabloid for the National Alliance to Keep and Bear Arms, of which he is Treasurer.
- Starting early next year a tabloid called *Controversy.*
- Running the "Patroits Defense Fund" in support of "innocent victims of bureaucratic tyranny" who are defendants in gun cases.
- Plugging numerous tax-protesters, a favorite cause of the far-right.
- Publishing books under the imprimatur of Salon Publishing Company, of Norborne, such as DePugh's own *Beyond the Iron Mask,* and reprints of 12 books by Thomas Dixon, Jr., an old racist.
- Maintaining files of persons deemed traitors and marked for "reprisals" in the event of a Communist takeover.
- Pursuing a radical-right line on public issues. ("I think welfare ought to be cut to the bones" and "Social Security is a danger to society.")

EAGLE FORUM

Phyllis Schlafly has changed the name of her new activist group to the "Eagle Forum – the alternative to women's lib." She points out that "the Eagle is almost the only creature in the animal world that keeps one mate for a lifetime."

FARM BUREAU

Delegates to the American Farm Bureau Federation ended their convention in St. Louis in January, after electing new officers and adopting an extensive set of resolutions.

In a move seen by some delegates as a power compromise by the farm bureau's southern delegation, Allan Grant of California defeated incumbent William J. Kuhfuss for the presidency.

Grant was appointed by former Gov. Ronald W. Reagan of California to serve as president of the California State Board of Agriculture from 1967 to 1975.

C.R. Johnston of Springfield, Mo., and Harold B. Steele of Princeton, Ill., were among the four persons re-elected to the Midwest board of directors.

Proving that the dollar is mightier than ideology, the arch-conservative Farm Bureau voiced opposition to any government restrictions on the sale of agricultural products in world markets in reaction to the Ford administration's moratorium on U.S. grain sales to the Soviet Union last fall.

FORD PRAISES RIGHT-WINGER

While in Chicago last month, President Ford gave a speech for Rev. J. H. Jackson, long-time head of the National Baptist Convention, said to be the nation's largest black organization, and saluted Jackson as one of America's greatest black leaders. Jackson has addressed such far-right groups as We, The People!, Billy James Hargis's Christian Crusade, and the Birchers' annual rally for God, Family and Country.

GENERAL SOCIETY OF SONS OF THE REVOLUTION

The General Society of Sons of the Revolution (1776) issued a statement late last year warning against what it called "powerful internationalist forces... at work in this country to subvert the Bicentennial Year."

In a statement approved by the organization's board of managers, meeting in St. Louis, the group warned that several movements are afoot to form one worldwide government or at least regional governments that would take away the sovereignty of the United States.

R. Stephen Uzzell Jr. is chairman of the organization's Americanism Committee. Uzzell, a retired chemical engineer and former lieutenant colonel in the Army Reserves, also produced statements from former President John F. Kennedy and President Ford which he said showed those leaders favored internationalism.

INTERNAL SECURITY GROUP

The American Conservative Union's latest fund-raising appeal is a professionally-produced effort on behalf of what it calls the ACU Internal Security Project, a last-gasp attempt to revive the House Committee on Internal Security, formerly called the House Committee on Un-American Activities. Late last year ACU sponsored a program in a House Office Building which drew as speakers Clarence M. Kelley, director of the Federal Bureau of Investigation, and William E. Colby, director of the Central Intelligence Agency.

MISSOURI CENTER FOR FREE ENTERPRISE

The Missouri Chamber of Commerce Education Foundation, Inc., has announced plans for a four-story, $1.3 million building to be called the Missouri Center for Free Enterprise. Among programs sponsored by the Foundation is a five-day business workshop for teachers, followed by a twelve-day tour of businesses. Symposiums are also held for students and clergymen.

ALLAN STANG REPORT

The Allan Stang report has been bumped off Kansas City's NBC station KBEA. Stang, a most prolific writer for the Birch Society magazine *American Opinion,* wrote "It's Very Simple," an anti-civil rights book in 1965. Allan Stang was sponsored by the Hawn Bedding Co. of Kansas City.